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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1851]

PART 250—PUBLIC SALES

DEFINITIONS; BIDDING; PLACE FOR SALE

Part 250 is amended, as follows:

1. Paragraphs (c) and (d) of § 250.2 are amended to read:

§ 250.2 *Definitions.* * * *

(c) "Regional Administrator" means the regional administrator for the region in which the land is situated.

(d) "Manager" means the manager of the land office for the district in which the land is situated. When there is no district land office in a State, it means the regional officer who has been authorized to perform the functions of the manager for sales under this part of public lands in that State.

2. The section headnote for § 250.10 and paragraph (a) are amended to read:

§ 250.10 *The bidding; place for sale.* (a) The land will be offered for sale at public auction, at not less than its appraised value, at the time and place fixed in the public notice. The land will be offered for sale at the land office of the district in which the land is situated, if there is a land office in the State. If there is no land office in the State, the sale may be held at a place within the region in which the lands are situated, to be designated by the regional administrator.

(R. S. 2478; 43 U. S. C. 1201)

DOUGLAS MCKAY,
Secretary of the Interior.

JULY 29, 1953.

[F. R. Doc. 53-6759 Filed, Aug. 3, 1953; 8:46 a. m.]

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See also ~~18[illegible]5~~
+ 1869

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter A—Alaska

Circular No. 1852

Part 69—Mineral Lands; General Mining Regulations

LOCATION AND ENTRY OF MINERAL LANDS IN ALASKA

Sec.
69.1 Laws relating to mining claims extended to Alaska.
69.2 Law in respect to placer claims.
69.3 Annual assessment work on mining claims and proof thereof.
69.4 Identification of lands.
69.5 Plats and field notes of survey.
69.6 Rates for newspaper publications.
69.7 Abstract of title.
69.8 Statement required that land is unreserved, unoccupied, unimproved, and unappropriated.
69.9 Period allowed for filing of adverse claims.
69.10 Period allowed for institution of adverse suits.

AREAS SUBJECT TO SPECIAL LAWS

1 Mineral deposits in the Glacier Bay National Monument.

MINING FOR GOLD AND OTHER PRECIOUS METALS IN BEDS AND ALONG SHORES OF NAVIGABLE WATERS IN ALASKA

69.12 Purpose and authority.
69.13 Filing of notice of intention to mine.
69.14 Area to be dredged.
69.15 Restrictions on dredge location.
69.16 Laws for the protection of navigable waters and fisheries.
69.17 Prior rights protected.
69.18 No title to be acquired; rights of future States.

SCHOOL SECTIONS

69.19 Statutory authority; mining claims.
69.20 Mining locations, entries and patents.

CROSS REFERENCES: For mineral lands, general mining regulations, see Part 185 of this chapter. For surveys in Alaska, see Part 78 of this chapter. For surveys and resurveys, general, see Parts 280, 281 of this chapter.

LOCATION AND ENTRY OF MINERAL LANDS IN ALASKA

AUTHORITY: §§ 69.1 to 69.10 issued under R. S. 2478; 43 U. S. C. 1201.

SOURCE: §§ 69.1 to 69.10 contained in Circular 491, Feb. 24, 1928, except as noted following sections affected. For editorial changes not otherwise indicated, see item 3 of Note following table of contents of chapter.

§ 69.1 *Laws relating to mining claims extended to Alaska.* The laws of the United States relating to mining claims were extended to Alaska by section 8 of the act of May 17, 1884 (23 Stat. 26), and sections 15, 16, and 26 of the act of June 6, 1900 (31 Stat. 327–329; 48 U. S. C. 119, 120, 381–383), again, in terms, extended the mining laws of the United States and all rights incident thereto, to the Territory, with certain further provisions with respect to the acquisition of claims thereunder.[2]

§ 69.2 *Law in respect to placer claims.* (a) The law in respect to placer claims in Alaska was modified and amended by the act of August 1, 1912 (37 Stat. 242), and section 4 of that act was amended by the act of March 3, 1925 (43 Stat. 1118).

(b) By the act of May 4, 1934 (48 Stat. 663; 48 U. S. C. 381a)[3] the acts of August 1, 1912, and March 3, 1925, were repealed and the general mining laws of the United States applicable to placer mining claims were declared to be in full force and effect in the Territory.

§ 69.3 *Annual assessment work on mining claims and proof thereof.* Under the act of March 2. 1907 (34 Stat. 1243; 48 U. S. C. 384, 385),[4] an unpatented mining claim in Alaska becomes forfeited for failure to complete the required assessment work during any assessment period, the act containing no provision for the protection or preservation of such claims through resumption of work.

§ 69.4 *Identification of lands* A statement as to descriptions should be incorporated in field notes of survey not tied to a corner of the public survey, and in applications for patent based thereon.[5]

§ 69 5 *Plats and field notes of survey.* Copies of the plats and field notes of survey in mining cases will be made and disposed of in accordance with instructions given in § 78.8 of this chapter.

§ 69.6 *Rates for newspaper publications.* Section 2334 of the Revised Statutes (30 U. S. C. 39) provides for the appointment of surveyors to survey mining claims, and authorizes the Director of the Bureau of Land Management to establish the rates to be charged for surveys and for newspaper publications in mining cases. Under this authority of law, the following rates have been established as the maximum charges for newspaper publications:

(a) The charge for the publication of notice of application for patent in a mining case in all districts shall not exceed the legal rates allowed by the laws of Alaska for the publication of legal notices wherein the notice is published and in no case shall the charge exceed $9 40 for each 10 lines of space occupied. Such charge shall be accepted as full payment for the publication for the entire period required by law

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[1] The general mining regulations contained in Part 185, as modified and supplemented by the regulations in this part, are effective in the Territory of Alaska. For laws relating to mining enacted by the Territory, see Session Laws of Alaska, March 14, 1935, Ch. 76, and ch 9, 1939, Ch. 77.

[2] See also amendatory acts of May 31, 1938 and August 8, 1947 (52 Stat. 588, 61 Stat. 916; 48 U. S. C. 381).

[3] Sec. 3 of the act of May 4, 1934 (48 Stat. 663; 48 U. S. C. 381a) provided: "This Act shall take effect thirty days subsequent to the date of convening of the first regular session of the Alaska Territorial Legislature which is held after the passage of this Act." The next legislature convened on the second Monday of January, 1935.

The act of March 2, 1907 (34 Stat. 1243; 48 U. S. C. 384, 385), prescribes the requirements as to annual assessment work on mining claims in Alaska and the manner of making proof thereof.

[5] The field notes of survey of all claims within the Territory of Alaska, and all applications for patent based thereon, where the survey is not tied to a corner of the public survey, shall contain a description of the location or mineral monument to which the survey is tied by giving its latitude and longitude and its position with reference to rivers, creeks, mountains, or mountain peaks, towns or other prominent topographical points or natural objects or monuments, giving the distances and directions as nearly accurate as possible, especially with reference to any well-known trail to a town or mining camp or to a river or mountain appearing on the map of Alaska, which description shall appear regardless of whether or not the survey be tied to an existing monument or to a monument established by the surveyor when making the survey in accordance with existing regulations with reference to the establishment of such monuments. The description of such monument shall appear in a paragraph separate from the description of the courses and distances of the survey.

(b) It is expected that these notices shall not be so abbreviated as to curtail the description essential to a perfect notice, and the said rates are established upon the understanding that the notices are to be set in the usual body type used for legal notices.

(c) Further information relative to publication and a sample of advertisement set up in accordance with Government requirements is given in § 185.88 of this chapter.

[Circ. 491, Feb. 24, 1928, as amended by Circ 1612, 11 F. R. 1820]

§ 69.7 *Abstract of title.* In the Territory of Alaska, the application for patent will be received and filed and the order for publication issued, if the abstract showing full title in the applicant is brought down to a day reasonably near the date of the presentation of the application. A supplemental abstract of title brought down so as to include the date of the filing of the application must be furnished prior to the expiration of the 60-day period of publication.

[Circ. 430 Apr. 11, 1922, as amended by Circ. 491, Feb. 24, 1928]

§ 69.8 *Statement required that land is unreserved, unoccupied, unimproved, and unappropriated.*[6] Each person making application for patent under the mining laws, for lands in Alaska, must furnish a duly corroborated statement showing that no portion of the land applied for is occupied or reserved by the United States, so as to prevent its acquisition under said laws; that the land is not occupied or claimed by natives of Alaska; and that the land is unoccupied, unimproved and unappropriated by any person claiming the same other than the applicant.

§ 69.9 *Period allowed for filing of adverse claims.* The act of June 7, 1910 (36 Stat. 459; 48 U. S. C. 386), provides that adverse claims may be filed at any time during the 60-day period of publication or within 8 months thereafter. This provision operates to enlarge by 8 months additional the time within which an adverse claim may be filed.

[Circ. 430 Apr. 11, 1922, as amended by Circ. 491, Feb. 24, 1928]

§ 69.10 *Period allowed for institution of adverse suits.* (a) It is also provided by the act that adverse suits may be instituted at any time within 60 days after the filing of adverse claims in the district land office. This provision applies to any adverse claim which is seasonably filed.

(b) Managers of district land offices in Alaska will exercise the greatest care in applying the provisions of the act, and will allow no mineral entry until after the expiration of the full period granted for the filing of adverse claims. For example, on any application under which the publication period ended with or after June 7, 1910, no entry will in any event be allowed until after the expiration of the 8 months' period following the publication period.

[Circ. 430, Apr. 11, 1922, as amended by Circ. 491, Feb. 24, 1928]

AREAS SUBJECT TO SPECIAL LAWS

§ 69.11 *Mineral deposits in the Glacier Bay National Monument.* (a) Under the act of June 22, 1936 (49 Stat. 1817), the lands in the Glacier Bay National Monument, reserved by proclamation of February 26 1925 (43 Stat. 1988), or as it may be extended are open to prospecting for the kinds of mineral now subject to location under the United States mining laws, and, upon discovery of any such mineral, locations may be made in accordance with the provisions of the mining laws and regulations thereunder. Such locations, duly made, will carry all the rights and incidents of mining locations, except that they will give to the locator no title to the land within their boundaries or claim thereto except the right to occupy and use so much of the surface of the land as required for all purposes reasonably necessary to mine and remove the minerals, such occupation and use to be under general regulations prescribed by the Secretary of the Interior.

(b) The owner of a mining location may cut such timber within the boundaries of his claim as is necessary for mining purposes. Prospectors may cut timber for their necessary mining and domestic uses only with the permission of the custodian of the monument or his representative who will designate the timber to be cut. All slash, brush or debris resulting from the cutting of timber upon mining claims or by prospectors shall be disposed of by the claimant or prospector in such manner and at such time as may be designated by the National Park Service officer in charge so as to prevent the creation of fire hazards, or conditions conducive to the development of infestation by timber-destroying insects.

(c) Prospectors or miners shall not open or construct roads or vehicle trails without first obtaining a permit from the Director of the National Park Service. Applications for such permits may be made through the officer in charge of the monument upon submitting a map or sketch showing the location of the mining property to be served and the location of the proposed road or vehicle trail The permit may be conditioned upon the permittee maintaining the road or trail in a passable condition so long as it is used by the permittee or his successors.

(d) Occupation and use of the surface of an unpatented mining claim is restricted by the general law to such as [illegible] reasonably incident to the exploration, development and extraction of the minerals in the claim. Accordingly, any locator or patentee of a mining claim located under this act will be entitled to such right. Upon written permission of the Director of the National Park Service or his representative, the surface of such claim may be used for other specified purposes, the use to be on such conditions and for such period as may be prescribed when permission is granted.

(e) Prospectors and miners shall at all times conform to any rules prescribed or which may be made applicable by the Director of the National Park Service to the national monument.

(f) The Park regulations for the protection of wild life provide:

> The national monument is a sanctuary for wild life of every sort, and all hunting, or the killing, wounding, frightening, capturing or attempting to capture at any time of any wild bird or animal, except dangerous animals when it is necessary to prevent them from destroying human lives or inflicting personal injury, is prohibited.
>
> Firearms, traps, seines, and nets are prohibited within the boundaries of the monument, except upon written permission of the custodian or his representative.

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[6] 18 U. S. C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

[7] Mining locations may be made on lands in the Mount McKinley National Park, under the provisions of the act of February 26, 1917 (39 Stat. 938; 16 U. S. C. 347–354) which expressly provides that the United States mining laws shall be applicable to mineral lands in that area.

Lands segregated for classification or sold under the Alaska Public Sale Act of August 30, 1949 (63 Stat. 679, 48 U. S. C. 364a–364e) are subject to mining location, under the provision of section 3 of that act for the development of the reserved minerals under applicable law, including the United States mining laws, and subject to the rules and regulations of the Secretary of the Interior necessary to provide protection and compensation for damages from mining activities to the surface and improvements thereon. Such mining locations are subject to the applicable general regulations in Parts 69 and 185 and to the additional conditions and requirements in § 75.39 of this chapter.

(R. S. 2478; 43 U. S. C. 1201) Circular 1753

(g) The right of occupation and use of the surface of the land embraced in the boundaries of a location, entry or patent pursuant to the act of June 22, 1936, will terminate when the minerals are mined out or the claim is abandoned. Any owner of an unpatented location who fails to perform annual assessment work on his claim for any assessment period will be assumed to have abandoned his claim and his right of occupation and use of the surface of the claim considered at an end.

(h) Applications for patents and final certificates issued thereon for mining claims in this monument should be noted "Glacier Bay National Monument Lands", and all patents issued for claims under the act will convey title to the minerals only, and contain appropriate reference to the act and the regulations issued thereunder.

(R. S. 2478; 43 U. S. C. 1201) (Circ. 1415, Dec. 28, 1936)

CROSS REFERENCE: For general mining regulations, see Part 185 of this chapter.

MINING FOR GOLD AND OTHER PRECIOUS METALS IN THE BEDS AND ALONG THE SHORES OF NAVIGABLE WATERS IN ALASKA

AUTHORITY: §§ 69.12 to 69.18 issued under 61 Stat. 916.

SOURCE: §§ 69.12 to 69.18 contained in Circular 1667, 12 F. R. 8205.

69.12 *Purpose and authority.* The of August 8, 1947 (61 Stat. 916) amends section 26 of the act of June 6, 1900 as amended (31 Stat. 321, 52 Stat. 588; 48 U. S. C. 331) to authorize the exploration and mining for gold and other precious metals in Alaska in land below the line of ordinary high tide on tidal waters and below the line of ordinary high water mark on nontidal waters navigable in fact, subject to certain conditions. It is the purpose of §§ 69 12 to 69 18, inclusive, to set forth the conditions under which such exploration and mining operations may be conducted.

§ 69.13 *Filing of notice of intention to mine.* Any citizen of the United States, any person who has legally declared his intention to become such, any association of such citizens, or any corporation organize under the laws of the United States or of any State or Territory thereof, shall, before commencing actual operations, file a notice of intention to mine or dredge for gold and other precious metals in any of the land described in the preceding section. This notice must be filed in triplicate in the nearest District Land Office, and should contain (a) the full name, address and citizenship of the person filing the notice, (b) a description of the place where the dredge will be initially located or the mining operations otherwise commenced, such place to be connected where practicable by course and distance to a corner of the public land survey on the shore, or if there are no surveyed lands in the vicinity, with the nearest, readily-ascertainable geographical or topographical point, (c) a statement that actual dredging or mining operations will be commenced no later than 90 days after the date of filing of the notice, and (d) a statement that the dredging or other mining operations will comply with all pertinent regulations and laws.

§ 69.14 *Area to be dredged.* In order to assure the preservation of order and the avoidance of conflict, each dredge commencing operations in accordance with §§ 69.12 to 69.18, inclusive, shall not be interfered with by other dredging or mining operations within an area of 200 feet in the direction of either bank and within a space of 500 feet up or down stream. This area shall be indicated by properly placed buoys. Other dredges or boats are to have access to such area for passage and navigational purposes, but, while passing through that area, are not to extract any minerals nor engage in any dredging or moving of materials except as may be necessary for the actual movement of the equipment.

§ 69.15 *Restrictions on dredge location.* No dredge shall be placed in a position or be so operated as to interfere with the free passage of boats on nontidal waters navigable in fact or along the shore line of tidal waters, or interfere with the landing at any public wharf or with other authorized means for landing stores or supplies. No dredge shall be located nearer to the shore than 100 feet from the line of ordinary low tide on tidal waters. Nor shall any dredge be located within the limits of frontage occupied by any townsite, mission or trading company with established entry under the law.

§ 69.16 *Laws for the protection of navigable waters and fisheries.* No dredging or other mining operations shall be conducted unless all the applicable laws and regulations relating to navigable waters and to the protection of fisheries are complied with.

CROSS REFERENCE: The regulations of the Fish and Wildlife Service of the Department of the Interior concerning fisheries are codified in 50 CFR chapter I. For regulations of the Department of the Army concerning navigable waters, see 33 CFR Chapter II.

§ 69.17 *Prior rights protected.* No dredging or other mining shall in any way be deemed to affect or impair any valid claims, rights or privileges arising under any other provision of law, including possessory claims under the first proviso of section 8 of the act of May 17, 1884 (23 Stat. 26).

§ 69.18 *No title to be acquired; rights of future States.* No dredging or other mining operations shall authorize, or be permitted to lead to, the acquisition of title to any of the land dredged or mined. Any privileges acquired with respect to mining operations in land, title to which is later transferred to a future State upon its admission to the Union, and which is situated within its boundaries, shall be terminable, by such State, and the mining operations shall be subject to the laws of such State.

SCHOOL SECTIONS

§ 69.19 *Statutory authority: mining claims.* (a) The act of March 5, 1952 (Pub. Law 270, 82d Cong., 2d Sess.) repealed the act of August 7, 1939 (53 Stat. 1243; 48 U. S. C. 353), which provided for the disposition under the mining laws of the United States, of the minerals in the lands reserved to the Territory of Alaska for educational uses. No valid claim may, therefore, be initiated under the mining laws after March 5, 1952, on lands reserved to the Territory for educational uses.

(b) Unsurveyed public lands which when surveyed will be sections reserved for educational uses, will, until the survey of the lands in the field but not thereafter be subject to the operation of the mining and mineral leasing laws in like manner as other public lands.

(Circ. 1815, April 30,1952)

§ 69.20 *Mining locations, entries and patents.* (a) Section 1 of the act of March 4, 1915, as amended, provides that nothing in that act shall affect any lands subject to or included in any valid application, claim, or right initiated or held under any laws of the United States, unless and until such application, claim, or right is extinguished, relinquished or cancelled. Therefore, any valid mining location or claim initiated prior to March 5, 1952, shall remain intact, subject to compliance with the mining laws and regulations thereunder applicable to the Territory, and subject to the rights of Territorial lessees. All proceeds or income derived by the United States from the disposition of the lands or the minerals therein under such outstanding mining claims shall be appropriated and set apart as permanent funds in the Territorial treasury.

(b) Controversies between Territorial lessees and owners of mining claims on the same land involving the right of possession, occupancy and use of lands, or liability for damages, are matters within the jurisdiction of the local courts.

(Circ.1815, April 30, 1952)

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Reprint, August 3, 1953, of Circular No. 430, April 11, 1922, as amended and extended by Circular No. 491, February 24, 1928; Circular No. 1415, December 28, 1936; Circular No. 1478, August 19, 1940; Circular No. 1612, February 5, 1946; Circular No. 1667, November 26, 1947; Circular No. 1753, May 6, 1950; Circular No. 1784, February 1, 1951, and Circular No. 1815 (in part) April 30, 1952.

Replaced by
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(11/58)

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1853]

PART 288—GENERAL TRESPASS REGULATIONS

SALE, LEASE OR PERMIT TO TRESPASSER

The following new centerhead and section are added:

SALE, LEASE OR PERMIT TO TRESPASSER

§ 288.12 *When timber or material may be sold, or a lease or permit issued, to a trespasser.* (a) For the purpose of this section, a trespasser is a person who is responsible for the unlawful use of or injury to property of the United States.

(b) No sale of timber or material will be made, and no permit or license will be issued, to a trespasser who has not satisfied his liability to the United States, except where:

(1) The Government has seized the materials cut, harvested, removed, or mined in trespass and the sale is made to the person who allegedly committed the trespass, at not less than the appraised value of the materials at the time of seizure, and without relieving the trespasser of liability for trespass damages to the extent that such damages exceed the amount paid for the materials; or

(2) The alleged trespasser files a bond conditioned upon payment of the amount of damages found by the regional administrator, or upon appeal by the Secretary of the Interior or his delegatee, to be due the United States; or

(3) The regional administrator finds in writing that there is a legitimate dispute as to the fact of the alleged trespasser's liability, or as to the extent of liability, or that the extent of the damages has not yet been determined, and the trespasser files a bond guaranteeing payment of the amount found by a court of competent jurisdiction to be due the United States; or

(4) The regional administrator finds in writing that:

(i) There is no other qualified bidder or that no other qualified bidder will meet the high bid, and

(ii) The sale or lease to the alleged trespasser is necessary to protect substantially the interest of the Government, either by preventing deterioration of or damage to the resource to be sold or loss or damage to other resources, or by accepting a highly advantageous price, and

(iii) The timber management or other resource management program of the Government will not be adversely affected by the sale.

(R. S. 161, 2478; 5 U. S. C. 22, 43 U. S. C. 1201)

RALPH A. TUDOR,
Acting Secretary of the Interior.

AUGUST 12, 1953.

[F. R. Doc. 53-7231; Filed, Aug. 17, 1953; 8:48 a. m.]

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INT.-DUP. SEC., WASH., D.C. 47122

Replaced by 2161

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1854]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

PERMITS FOR RIGHTS-OF-WAY FOR LOGGING ROADS; TRESPASS

Section 115.160 is amended to read as follows:

§ 115.160 *Trespass.* The mere filing of an application under §§ 115.154 to 115.179 does not authorize the applicant to use the right-of-way in any manner or for any purpose until written permission therefor has been duly executed by the regional administrator and delivered to the applicant. Any unauthorized use of O. and C. land constitutes a trespass for which the trespasser is liable in damages to the United States. Where there has been such a trespass, no permit shall be issued to the alleged trespasser unless (a) the trespass claim is fully satisfied; or (b) the alleged trespasser files a bond conditioned upon payment of the amount of damages found by the regional administrator, or upon appeal by the Secretary of the Interior or his delegatee, to be due the United States; or (c) the regional administrator finds in writing that there is a legitimate dispute as to the fact of the alleged trespasser's liability or as to the extent of his liability and the trespasser files a bond guaranteeing payment of the amount found by a court of competent jurisdiction to be due the United States.

CROSS REFERENCE: For disposal of timber or material to a trespasser, see § 288.12 of this chapter, added by F. R. Doc. 53-7231, Title 43, Chapter I, Part 288, *infra.*

(28 Stat. 635, as amended, sec. 11, 39 Stat. 223, sec. 6, 40 Stat. 1181, sec. 5, 50 Stat. 875; 43 U. S. C. 956)

RALPH A. TUDOR,
Acting Secretary of the Interior.

AUGUST 12, 1953.

[F. R. Doc. 53-7232; Filed, Aug. 17, 1953; 8:48 a. m.]

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter C—Areas Subject to Special Laws

[Circular No. 1855]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

PERMITS FOR RIGHTS-OF-WAY FOR LOGGING ROADS; STATEMENT OF POLICY

115.155(h.) amended. See Cir 1873

Section 115.155 is amended by adding at the end thereof two new paragraphs, as follows:

§ 115.155 *Statement of policy.* * * *

(h) Where in the judgment of the regional administrator there is a good prospect of arriving at a long term agreement, short term revocable right-of-way permits may be issued by the regional administrator when: (1) The applicant has consummated with the Bureau of Land Management pursuant to either § 115.165 or § 115.162 one or more road agreements on a substantial road system, or, (2) the applicant, in the opinion of the regional administrator, is conducting negotiations for a long term agreement in good faith. Such right-of-way permits shall be for two years, subject to one-year extensions. Extensions shall be granted when the regional administrator deems such action to be in the interest of the Government. The permit shall specify the volume of timber which may be carried over the right-of-way and the area from which such timber may be logged. The applicant must comply with § 115.162 (a) (1) and (2), and (d) to the extent that rights-of-way and road use rights are needed to remove Government timber offered for sale during the period for which the short term right-of-way is granted.

(i) The regional administrator may, in his discretion, issue to private operators rights-of-way across O. and C. lands, needed for the conduct of salvage operations, for a period not to exceed five years. A salvage operation as used in this paragraph means the removal of trees injured or killed by windstorms, insect infestation, disease, or fire, together with any adjacent green timber needed to make an economic logging show. As a condition of the granting of such rights-of-way, the operator will be required, when the regional administrator deems it necessary, to grant to the United States and its licensees for the conduct of salvage operations on O. and C. lands for a period not to exceed five years, rights-of-way across lands controlled directly or indirectly by him and to grant the right to use to the extent indicated in §§ 115.163 and 115.164 any portions of the road system controlled directly or indirectly by the private operator which is adequate or can economically be made adequate to accommodate the requirements of both the operator and of the United States and its licensees.

(28 Stat. 635, as amended, sec. 11, 39 Stat. 223, sec. 6, 40 Stat. 1181, sec. 5, 50 Stat. 875; 43 U. S. C. 956)

RALPH A. TUDOR,
Acting Secretary of the Interior.

AUGUST 12, 1953.

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For Part 194- See
Circ 1592, 1600, 1643
& 1836

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Circular No. 1857

PART 194—POTASSIUM PERMITS AND LEASES

OVERRIDING ROYALTIES

Section 194.27a is added to read as follows:

§ 194.27a *Overriding royalties.* (a) An overriding royalty interest may be created by assignment or otherwise: *Provided, however,* That if the total of the overriding royalty interests at any time exceeds one percent of the gross value of the output at the point of shipment to market, they shall be subject to reduction or suspension by the Secretary to a total of not less than one percent of such gross value, whenever, in the interest of conservation, it appears necessary to do so (1) in order to prevent premature abandonment, or (2) in order to make possible the economic mining of marginal or low grade deposits on the leased lands or any part thereof. Where there is more than one overriding royalty interest any such suspension or reduction shall be applied to the respective interests in the manner agreed upon by the holders thereof or in the absence of such agreement in the inverse order of the dates of creation of such interests.

(b) Any assignment, sublease, or other transfer or agreement which creates an overriding royalty interest shall not be approved unless the owner of that interest files his agreement in writing that such interest is subject to suspension or reduction as provided in paragraph (a) of this section. No overriding royalties shall be paid at a rate in excess of the rate to which they have been so reduced until otherwise authorized by the Secretary.

(Sec. 32, 41 Stat. 450; 30 U. S. C. 189)

RALPH A. TUDOR,
Acting Secretary of the Interior.

AUGUST 13, 1953.

[F. R. Doc. 53-7323; Filed, Aug. 19, 1953; 8:47 a. m.]

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter O—Payments and Repayments

[Circular 1858]

PART 216—PAYMENTS

FORMS OF REMITTANCES THAT ARE ACCEPTABLE

Section 216.30 is amended by adding thereto a paragraph (c) to read as follows:

§ 216.30 *Forms of remittances that are acceptable.* * * *

(c) Whenever the regulations in this chapter require a deposit, or payment, to be made by certified check, money order, or cash, a bank draft or cashier's check will be accepted in lieu thereof.

(R. S. 2478; 43 U. S. C. 1201)

DOUGLAS MCKAY,
Secretary of the Interior.

SEPTEMBER 2, 1953.

[F. R. Doc. 53-7851; Filed, Sept. 9, 1953; 8:47 a. m.]

Published in 18 F.R.5453 of September 10, 1953

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See Circ. 1832

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1859]

PART 70—MINERAL LANDS; COAL PERMITS AND LEASES, AND LICENSES FOR FREE USE OF COAL

PART 71—MINERAL LANDS; OIL AND GAS, PHOSPHATE AND OIL SHALE LEASES, AND POTASH AND SODIUM PERMITS AND LEASES

PART 76—SCHOOL LAND RESERVATION; GRANT FOR UNIVERSITY

SCHOOL SECTIONS

In order to show the conditions under which school sections in Alaska which have been reserved to the Territory as set forth in Part 76 may now be leased under the mineral leasing laws, the following amendments and additions are made to Parts 70 and 71, and cross-reference as shown below is added to Part 76.

1. The following text is added to Part 70.

SCHOOL SECTIONS

§ 70.30 *Coal permits and leases.* Under the act of August 5, 1953 (67 Stat. 364) amending section 1 of the act of March 4, 1915 (38 Stat. 1214; 48 U. S. C. 353), coal permits and leases may be issued under the act of October 20, 1914 (38 Stat. 741; 48 U. S. C. 434), as amended, and the regulations thereunder in this part, on lands reserved to the Territory of Alaska for educational uses by the said act of March 4, 1915. The act also provides that should a State be created out of the Territory of Alaska during the life of the permit, lease or contract, all right, title and interest of the United States under such lease, permit or contract, including any authority to modify its terms and conditions retained by the United States, shall vest in the State to which title to the lands is transferred.

§ 70.31 *Occupation and use of the surface by coal permittees or lessees.* Permits and leases issued for the land will be subject to the condition that the permittee or lessee shall compensate any Territorial lessee of the surface of the leased lands or any part thereof for any resulting damages to any crops, improvements or other property of the surface lessee on the land or for any interference with such lessee's normal and proper use of the land for the purpose or purposes for which it was leased. The amount of such damages in any case may be determined by agreement between the parties or by an action in the local courts. Each permittee or lessee for such lands must furnish and maintain at all times a bond in the penal sum of not less than $1,000 for the protection of the surface lessee except that where a bond in not less than that amount is required to be furnished for other purposes, it may be also conditioned on the protection of that lessee.

2. New §§ 71.4 and 71.5 are added to Part 71 and § 71.3 is amended, as follows:

SCHOOL SECTIONS

§ 71.3 *Potassium and sodium permits and leases and oil and gas, oil shale and phosphate leases.* Under the act of August 5, 1953, amending section 1 of the act of March 4, 1915 (38 Stat. 1214; 48 U. S. C. 353), permits or leases for the prospecting for or mining of oil, gas, oil shale, phosphate, sodium or potassium deposits may be issued under the act of February 25, 1920 (41 Stat. 437; 30 U. S. C. 181, et seq.), as amended, and the regulations thereunder, as supplemented by the regulations in this part, on lands reserved to the Territory for educational uses by the said act of March 4, 1915.

§ 71.4 *Occupation and use of the surface by permittees and lessees.* Permits and leases issued for the land will be subject to the condition that the permittee or lessee shall compensate any Territorial lessee of the surface of the leased lands or any part thereof for any resulting damages to any crops, improvements or other property of the surface lessee on the land or for any interference with such lessee's normal and proper use of the land for the purpose or purposes for which it was leased. The amount of such damages in any case may be determined by agreement between the parties or by an action in the local courts. Each permittee or lessee for such lands must furnish and maintain at all times a bond in the penal sum of not less than $1,000 for the protection of the surface lessee except that where a bond in not less than that amount is required to be furnished for other purposes, it may be also conditioned on the protection of that lessee. The act also provides that should a State be created out of the Territory of Alaska during the life of the permit, lease or contract, all right, title and interest of the United States under such lease, permit or contract, including any authority to modify its terms and conditions retained by the United States, shall vest in the State to which title to the lands is transferred.

§ 71.5 *Preference rights.* The act provides that any person qualified to hold an oil and gas lease who had first filed in point of time and had pending on January 15, 1953, an offer or application for an oil and gas lease for any lands subject to the act which on said date were within the limits of a unitized area created by a unit agreement approved by the Secretary of the Interior and which were on the date the offer or application was filed not within the known geological structure of a producing oil or gas field shall have a preference right over others to an oil and gas lease for such lands.

(Sec. 32, 41 Stat. 450; 30 U. S. C. 189)

3. The following cross-reference is added after § 76.4:

CROSS REFERENCE: For the leasing of school sections under the mineral leasing laws, see §§ 70.30, 70.31, 71.3, 71.4 and 71.5 of this chapter.

DOUGLAS MCKAY,
Secretary of the Interior.

SEPTEMBER 10, 1953.

[F. R. Doc. 53-8013; Filed, Sept. 16, 1953; 8:46 a. m.]

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See Cir. 1877

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Replaced by Circular 1895 (11/58)

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Circular No. 1860

Part 250—Public Sales

Sec.
250.1 Statutory authority.
250.2 Definitions.
250.3 Application.
250.4 Action upon the application or in the absence of application.
250.5 Effect of application.
250.6 Land subject to sale as isolated tracts.
250.7 Land subject to sale as mountainous or too rough for cultivation; qualifications of applicant.
250.8 Mineral lands.
250.9 Publication of notice; time and proof of publication; posting required.
250.10 The bidding.
250.11 Action at close of bidding.
250.12 Action after purchaser is declared.
250.13 Appeals.

AUTHORITY: §§ 250.1 to 250.13 issued under R. S. 2478; 43 U. S. C. 1201.

SOURCE: §§ 250.1 to 250.13 contained in Circular 1666, 12 F. R. 7944, except as noted following sections affected.

§ 250.1 *Statutory authority.*[1] The sale at public auction of isolated or disconnected tracts of public land not exceeding 1,520 acres, and tracts not isolated, of not exceeding 760 acres, the greater parts of which are mountainous or too rough for cultivation, is authorized by section 2455 of the Revised Statutes, as amended by section 14 of the act of June 28, 1934 (48 Stat. 1274; 43 U. S. C. 1171) and the act of July 30, 1947 (61 Stat. 630).

§ 250.2 *Definitions.* When used in this part:

(a) "Secretary" means Secretary of the Interior.

(b) "Director" means Director, Bureau of Land Management.

(c) "Regional Administrator" means the regional administrator for the region in which the land is situated.

(d) "Manager" means the manager of the land office for the district in which the land is situated. When there is no district land office in a State, it means the regional officer who has been authorized to perform the functions of the manager for sales under this part of public lands in that State.

(e) "Applicant" or "purchaser" includes an individual, a partnership, an association, or a corporation.

[Circ. 1666, 12 F. R. 7944, as amended by Circ. 1693, 13 F. R. 5182]

(d) - See Circ 1877

(Paragraphs (c) and (d) amended by Circular No. 1851, July 29, 1953)

§ 250.3 *Application.* (a) An application to have tracts ordered into the market must be executed in duplicate on Form 4–008e. The application must be filed with the manager of the land office for the district within which the land is situated. If the land is in a State in which there is no district land office, the application must be filed with the Director.

(b) The application need not be under oath but must be signed by the applicant and two corroborating witnesses having personal knowledge of the facts stated therein.[2]

§ 250.4 *Action upon the application or in the absence of application.* (a) If an application is not properly executed or not corroborated, if the applicant does not show himself qualified, or if the tract appears not to be subject to disposition, the application will be rejected. If part of the tract is appropriated, the application will be rejected as to that part, and, in the absence of an appeal, the description thereof eliminated from the application, and such further action will be taken as though it had never been included therein.

(b) The regional administrator may classify under section 7 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U. S. C. 315f) as amended, land for offering under this part, and he may authorize such offering of the land for sale if he determines, in accordance with the existing regulations and procedures, that such land is suitable for disposal as an isolated or as a rough or mountainous tract, as the case may be.

(c) The regional administrator may authorize the offering of an isolated tract for sale either upon application or on his own motion.

[Circ. 1666, 12 F. R. 7944, as amended by Circ. 1693, 13 F. R. 5182]

§ 250.5 *Effect of application.* The filing of an application in conformity with the regulations in this part will not segregate the lands applied for from other application under the public land laws, or defeat a prior valid right initiated under any such law. However, until the issuance of a cash certificate, the regional administrator may at any time determine that the lands should not be sold, the applicant or any bidder has no contractual or other rights as against the United States, and no action taken will create any contractual or other obligation of the United States.

[Circ. 1666, 12 F. R. 7944, as amended by Circ. 1693, 13 F. R. 5182]

§ 250.6 *Land subject to sale as isolated tracts.* (a) There is no limitation as to the number of isolated-tract applications which may be filed, nor as to the amount of such land which may be applied for or purchased by any one person or group. An application may include several incontiguous tracts, but it may not embrace an aggregate area in excess of 1,520 acres, and tracts with an area over 1,520 acres will not be ordered into the market. Each isolated tract will be offered separately and a separate cash certificate will be issued for each tract, except to the extent that they are bought by the same person.

(b) As a general rule, no tract will be deemed isolated unless it is completely surrounded by lands held in non-Federal ownership, or is so effectively separated from other federally owned lands by some permanent withdrawal or reservation as to make its use with such lands impracticable. A tract is considered isolated if the contiguous tracts are all patented, even though there are other public lands cornering upon the tract.

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[1] The provisions of R. S. 2455 (43 U. S. C. 1171) authorizing public sales, were extended, with certain conditions, to the areas mentioned below by the statutes indicated:

Area	*Statute*
Chippewa Indian lands, Minn.	Feb. 4, 1919 (40 Stat. 1055; 43 U. S. C. 1172).
Oregon and California railroad grant lands, Oreg., Class 3.	May 25, 1920 (41 Stat. 622; 43 U. S. C. 1174)
Oregon and California railroad grant and Coos Bay wagon-road grant lands, Oreg.	Section 3, August 28, 1937 (50 Stat. 875).
Oklahoma	April 24, 1928 (45 Stat. 457; 43 U. S. C. 1171a).
Alabama coal lands	May 23, 1930 (46 Stat. 377; 43 U. S. C. 1171b).

[2] 18 U. S. C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statments or representations as to any matter within its jurisdiction.

Reprint, September 30, 1953, of Circular No. 1666, November 19, 1947, as amended by Circular No. 1693, August 27, 1948, Circular No. 1791, May 4, 1951, Circular No. 1848, June 4, 1953 and Circular No. 1851, July 29, 1953.

§ 250.7 *Land subject to sale as mountainous or too rough for cultivation; qualifications of applicant.* (a) Legal subdivisions not exceeding 760 acres, the greater part of which is mountainous or too rough for cultivation, may be offered for sale only upon the application of any person who owns land or holds a valid entry on lands adjoining such tract and regardless of the fact that such tract may not be actually isolated.

(b) An applicant for sale of a tract which is mountainous or too rough for cultivation must show that he is the owner of the whole title, that is, the fee owner, of land adjoining the land applied for, or that he holds a valid entry embracing adjoining land, in connection with which entry he has met the requirements of the law. A showing that the applicant owns cornering land or holds a valid entry of a cornering tract would not qualify him.

(c) An application under this section may not embrace more than 760 acres. An applicant may file any number of applications provided the land applied for together with such land previously purchased does not exceed 760 acres in area. The limitation under this section relates only to applications under this section. In acting on applications for rough or mountainous tracts, regard will be had to the character of each subdivision applied for. An entire tract composed of more than one legal subdivision will not be offered upon the ground that the greater part of the tract is mountainous or too rough for cultivation, if taken as a whole.

§ 250.8 *Mineral lands.* (a) Mineral lands may not be sold except under specific statutory authority which exists for the sale of lands valuable for certain minerals with a reservation of those minerals to the United States. The regulations relating to applications for the surface of such lands are contained in Part 102 of this chapter. They must be complied with whenever an application is filed for land, withdrawn, classified, or valuable for such minerals, where such land is embraced by mineral permits or leases, or applications for such permits or leases, or where the land lies within the geological structure of a producing oil or gas field.

(b) The notice of sale for publication and posting will provide that the land will be sold subject to reservations to the United States of the appropriate minerals, and in accordance with the provisions of the applicable act or acts which authorize the making of the reservation. The cash certificate and patent will provide for such reservation and will refer to such act or acts.

§ 250.9 *Publication of notice; time and proof of publication; posting required.* (a) Upon the issuance of a decision authorizing the sale, a notice for publication will be sent the applicant with instructions that he publish it at his expense in the newspaper designated. Payment for publication must be made by the applicant directly to the publisher. The notice must be published prior to the date of sale in the designated newspaper, if a daily paper, in the Wednesday issue for five consecutive weeks; if a weekly, in five consecutive issues; and if a semi-weekly or tri-weekly, in the issue of the same day of each week, for five consecutive weeks. The manager will cause a similar notice to be posted in his office during the entire period of publication.

(b) The applicant must file in the district land office, prior to the date fixed for the sale, evidence that publication has been had for the required period. Such evidence may consist of the statement of the publisher, accompanied by a copy of the notice published.

(c) - See Circ. 1876

§ 250.10 *The bidding; place for sale.* (a) The land will be offered for sale at public auction, at not less than its appraised value, at the time and place fixed in the public notice. The land will be offered for sale at the land office of the district in which the land is situated, if there is a land office in the State. If there is no land office in the State, the sale may be held at a place within the region in which the lands are situated, to be designated by the regional administrator.

(b) Bids may be made by the principal or his agent, either personally at the sale or by mail.

See Circ 1876

~~(c) Bids sent by mail will be considered only if received at the district land office prior to the hour fixed for the sale. These bids must be enclosed in sealed envelopes and must be accompanied by certified checks or post office money orders for the amounts of the bids. The envelopes must be marked in the lower left-hand corner as prescribed in the notice of sale. The envelopes containing the sealed bids will not be opened by the manager until the time fixed for the sale. However, he will note on each envelope the hour and date of its receipt.~~

See Circ 1877

(d) The manager will commence the sale by reading the public announcement thereof and by opening the sealed bids and announcing such bids. He will then receive bids from the persons present.

(e) All bidders are warned against violation of the provisions of 18 U. S. C. 1860, prohibiting unlawful combination or intimidation of bidders.

(Paragraph (a) amended by Circular No. 1851, July 29, 1953)

§ 250.11 *Action at close of bidding—(a) Declaration of highest bidder.* When all persons present shall have ceased bidding, the manager will, in the usual manner, declare the bidding closed, subject to the preference right of purchase of owners of contiguous land (see paragraph (b) of this section), announce the amount of the highest [illegible] and declare the offerer thereof (or [illegible] principal) the highest bidder, provided that the latter immediately pays to the manager the amount of the bid, if he has not already done so. In the absence of such payment, the manager will at once proceed with the sale, excluding the bid made by the highest bidder and starting with the next highest bid not withdrawn. In the event the bids of two or more persons sent by mail are the same in amount and are the highest offered, the first received, as shown by the hour and date noted on the envelope, will be accepted by the manager. In no event may the land be sold or a purchaser declared before the end of the 30-day period for the assertion by contiguous land owners of their preference right of purchase.

(b) *Preference right of purchase; declaration of purchaser.* The owners of contiguous lands have a preference right, for a period of 30 days after the highest bid has been received, to purchase the land offered for sale at the highest bid price or at three times the appraised price if three times such appraised price is less than the highest bid price. Such preference right may also be asserted at any time prior to the commencement of such period. Such preference right is not extended to the owner or owners of cornering lands.

(1) A preference right to purc[illegible] must be supported by proof of the claimant's ownership of the whole title to the contiguous lands (that is, he must show that he had the whole title in fee), and must be accompanied by the purchase price of the land.[3]

(2) If there is only one qualified preference-right claimant, or if there are conflicting qualified preference-right claimants and there is an amicable agreement among them, the manager will declare such claimant or claimants the purchasers.

(3) Where there is a conflict between two or more persons claiming a preference right of purchase, they will be allowed 30 days from receipt of notice within which to agree among themselves upon a division of the tracts by subdivisions. In the absence of an agreement an equitable division of the land will be made taking into consideration such factors as (i) the equalizing of the number of acres which each claimant will be permitted to purchase, (ii) desirable land use, based on topography, land pattern, location of water, and similar factors, and (iii) legitimate historical use, including construction and maintenance of authorized improvements. If equita-

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[3] Although one who holds a valid adjoining entry may file an application for the sale of lands which are mountainous or too [illegible] for cultivation, he may not assert a p[illegible]ence right of purchase unless he has acquired the whole title to adjoining lands.

ble considerations dictate, all of the subdivisions may be awarded to one of the claimants. Where only one subdivision is offered for sale and it adjoins the lands of two or more preference right claimants, it will, in the absence of equitable considerations requiring otherwise, be awarded to the applicant for the sale if he is a qualified person who properly asserts such a preference right within or prior to the 30-day preference-right period. The manager will make the award by declaring the appropriate claimant or claimants purchasers of the land.

(Paragraph (b) (3) amended by Circular No. 1848, June 4, 1953)

(4) If, by the end of the preference-right period, no preference right has been asserted, the sale will be declared closed and the manager may declare the highest bidder the purchaser.

[Circ. 1666, 12 F. R. 7944, as amended by Circ. 1693, 13 F. R. 5182]

§ 250.12 *Action after purchaser is declared*—(a) *Payment of cost of publication by purchaser*. If the applicant for the sale is an unsuccessful bidder, the person awarded the land must reimburse and pay directly to him the amount expended for publication of notice and file evidence thereof in the district land office within 10 days from the date he is declared the purchaser. If the evidence is not furnished, the manager will reject the bid and will accept the bid next in order, subject to the same conditions. Where an equitable apportionment of the land is made between two or more claimants, pursuant to paragraph (b) of § 250.11, each of the claimants must bear an equal share of the expense.

(b) (1) Unless he has previously done so, the purchaser must, within 10 days after he has been so declared, file with the manager a statement of his citizenship, or if a partnership, a statement of the citizenship of its members. If the purchaser is an unincorporated association, a statement must be filed showing the citizenship of each member. A corporation is required to file a certified copy of its articles of incorporation showing that it is organized under the laws of the United States, or of some State, Territory or possession thereof, and that it is authorized to acquire and hold real estate in the State or Territory in which the land is situated, and it must furnish a statement showing the percentage of each class of its stock, and the percentage of all of its stock, which is owned or controlled by or on behalf of persons whom the corporation knows to be or has reason to believe are aliens, or who have addresses outside of the United States, indicating which classes of stock have voting rights. If more than 10 percent of the voting stock, or of all of the stock, is owned or controlled by or on behalf of such persons, the corporation must give their names and addresses, the amount and class of stock held by each, and, to the extent known to the corporation or which can be reasonably ascertained by it, the facts as to the citizenship of each such person.

(2) If the purchaser declared by the manager is an alien individual, a partnership a member of which is an alien, an unincorporated association any appreciable number of the members of which are aliens, or a corporation, any appreciable percentage of the stock of which is held by aliens, and if the sale to such purchaser has not previously been approved by the Secretary, the declaration of the purchaser is subject to approval by the Secretary of the Interior, and the manager will withhold the cash certificate until such approval has been given. Such purchaser may submit a statement of reasons why the declaration should be approved despite the question of citizenship.

(c) When there has been full compliance with the regulations in this part, the manager will issue a cash certificate to the purchaser.

/Paragraphs (b) and (c) amended by Circ. 1791, 16 F.R. 4340, May 10, 1951/

§ 250.13 *Appeals.* An appeal pursuant to the Rules of Practice (Part 221 of this chapter) may be taken from any decision of the manager to the Director, and, from the decision of the Director to the Secretary.

NOTE: The reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Circular No. 1861

Part 132—Soldiers' Additional Homestead Rights

ASSIGNMENT AND USE OF SOLDIERS' ADDITIONAL HOMESTEAD RIGHTS

Sec.
132.1 Persons entitled to soldiers' additional homestead rights.
132.2 Right is both inheritable and assignable.
132.3 How right may be used.
132.4 Residence and cultivation not required of entryman.
132.5 Validity of right not determined in advance of application.
132.6 Selection of land and application.
132.7 Form prescribed for applications.
132.8 Action on applications.
132.9 Assignment of undivided interests.
132.10 Certificates issued prior to August 18, 1894.
132.11 Transfer and assignment of recertified rights.
132.12 Attestation and acknowledgment of recertified rights.
132.13 Allowance of application and issuance of final certificate.
132.14 Rule of approximation not permitted.

AUTHORITY: §§ 132.1 to 132.14 issued under R. S. 2478; 43 U. S. C. 1201.

SOURCE: §§ 132.1 to 132.14 contained in Circular 1047, Jan. 9, 1926, except as noted following sections affected. For editorial changes not otherwise indicated, see item 3 of Note following table of contents of chapter.

CROSS REFERENCES: For certificates and scrip, general regulations, see Part 130 of this chapter. For general orders of withdrawal, see §§ 297.11, 297.12 of this chapter. For land classifications, see Part 296 of this chapter. For soldiers' additional rights, Alaska, see Part 61 of this chapter.

§ 132.1 *Persons entitled to soldiers' additional homestead rights.* Any officer, soldier, seaman, or marine who served for not less than 90 days in the Army or Navy of the United States during the Civil War, receiving an honorable discharge therefrom, and who, prior to June 22, 1874, the date of the adoption of the Revised Statutes, made a homestead entry for less than 160 acres, may, under section 2306, Revised Statutes (43 U. S. C. 274), enter an additional quantity of land which added to the previous entry will not aggregate more than 160 acres. This right was extended by section 2307, Revised Statutes (43 U. S. C. 278), to the widow, if unmarried, otherwise to the minor orphan children.

§ 132.2 *Right is both inheritable and assignable.* By the Supreme Court decision of November 16, 1925, in the case of Anderson v. Clune (269 U. S. 140, 70 L. ed. 200), it was held that the grant vests a property right in the donee, to which must be accorded the quality of inheritability as well as assignability and that such right, if not exercised or transferred by the donee, passes to his estate as other property, subject only to the exercise of the rights given by section 2307, Revised Statutes (43 U. S. C. 278), to the widow and minor orphan children.

§ 132.3 *How right may be used.* The soldier's additional right may be used (a) by the soldier in his lifetime either directly by entering the land or indirectly, in his lifetime, by conveying his right to entry to an assignee; or (b), similarly, by the widow, while her status as widow of the soldier continues; or (c), similarly, by the minor orphan children, during their minority, acting through their lawful guardian. In case a soldier entitled to the right dies without exercising it, leaving no widow or minor orphan children, the right to entry vests in his personal representative as personal property. If the right passes to the soldier's widow and she remarry or die without exercising it, and there be no minor children of the soldier then surviving, the right vests in the soldier's estate; but if the right passes to the minor children, it becomes absolute in them, in no way conditioned upon an appropriation by the guardian during their minority.

§ 132.4 *Residence and cultivation not required of entryman.* Residence and cultivation are not required in the location of soldiers' additional rights, either by the original beneficiary or by his assignee, no matter whether the original entry was perfected or abandoned.

§ 132.5 *Validity of right not determined in advance of application.* The Bureau of Land Management does not pass upon the question of whether or not an additional right exists in the absence of an application to locate the alleged right upon a specific tract of land which must be accompanied with a record of the military service, description of the entry made prior to June 22, 1874, competent evidence showing identity of the soldier with the entryman, that no subsequent entry has been made, and that the right has not been previously assigned. If the right is sought to be located by the assignee, appropriate evidence must be submitted showing that he is entitled thereto by assignment.

§ 132.6 *Selection of land and application.* The owner of a soldiers' additional right who desires to personally exercise the same must first select a tract of land and then file formal application therefor in the district land office for the district in which the land desired is situated, accompanying the same with the evidence as to existence and ownership of the right as indicated in § 132.5; or if the land desired be located in Kansas, Michigan, Mississippi, or Wisconsin, or other public-land State in which there is no district land office, the application and accompanying evidence must be filed in the Bureau of Land Management.

§ 132.7 *Form prescribed for applications.* The required nonmineral and nonoccupancy statements are embodied in Form 4-008a, prescribed for soldiers' additional applications.

Reprint, October 15, 1953, of Circular No. 648, June 24, 1919, Circular No. 1047, January 9, 1926, Circular No. 1603, May 2, 1945, and Circular No. 1808, January 5, 1952.

§ 132.8 *Action on applications.* (a) Where an application to locate soldiers' additional rights under sections 2306 and 2307, Revised Statutes (43 U. S. C. 274, 278), is held for rejection by the Bureau of Land Management, and the applicant accepts the holding and files a substitute soldier's additional right, such substitute right should be accompanied by a formal application (Form 4-008a), duly executed. As the substitution amounts to a waiver of all rights under the rejected application, the substituted right should be given a new serial number by the manager. Publication and posting must be made as required by §§ 130.1 to 130.4 of this chapter, and a copy of the notice of publication msut be forwarded to the proper regional administrator for his indorsement, except in Alaska, where publication and posting must be made in accordance with section 10, act of May 14, 1898 (30 Stat. 413; 48 U. S. C. 359), and § 61.15. The above covers cases in which the entire right has been held to be invalid, and has no bearing whatever on the so-called "combination" cases. Where a part of a combination of rights is held to be invalid and new rights substituted therefor, a formal application (Form 4-008a) should not be filed, and a new serial number should not be assigned. Applications to locate soldiers' additional rights, whether certified or uncertified, must in no instance be considered by managers for allowance, but must be transmitted with their regular returns. Where classification of the land is required under section 7 of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976, 43 U. S. C. 315f), publication of notice of location or selection should not be started until authorization is received from the Bureau of Land Management. Where classification is not required, publication and posting should be started within 20 days from the date of filing, and when completed should be transmitted with the regular returns. The manager must date and sign his certificate to such applications. In every case the applicant must be designated as assignee of the soldier, or soldiers, and care observed to give the soldier's full name. Fees and commissions in connection with soldiers' additional applications are not required to be tendered at the time of filing. If tendered the manager must, of course, issue receipts therefor.

(b) No such application should be received by the manager unless accompanied by evidence of the right, or by a reference to the case, by land office, serial number and description of the land, containing such evidence.

[Circ. 1603, 10 F. R. 5464]

§ 132.9 *Assignment of undivided interests.* (a) If one claiming a portion of a soldier's additional right as the heir of a soldier furnishes convincing proof of his heirship, the names of the other heirs, and that there are no debts due by the estate of the soldier, his application to locate his portion of the right, or an assignment thereof, will be recognized.

(b) A soldier's additional right not exercised (or assigned) by the soldier, nor by his widow during widowhood, in the absence of minor children, descends to those who are his heirs under the laws of the State of his domicile at the time of his death, and, in making proof of the undivided interest to be located or assigned, the applicant will be required to furnish evidence showing the succession in the same manner as in the case of estates generally.

[Circ. May 13, 1927]

§ 132.10 *Certificates issued prior to August 18, 1894.* All certificates of right regularly issued by the General Land Office prior to August 18, 1894, showing that the parties named therein are entitled to make soldiers' additional homestead entries, are declared to be valid by the act of said date (28 Stat. 397; 43 U. S. C. 276), notwithstanding any attempted sale or transfer. The said act provides that, where such certificates had been or might thereafter be sold or transferred, the sale or transfer thereof shall not be regarded as invalidating the right, but the same shall be good and valid in the hands of bona fide purchasers for value, and that all entries made by such purchasers therewith shall be approved and patent shall issue in the name of the assignees. Before the approval of such entries for patent the transferee must file in the Bureau of Land Management satisfactory proof of ownership and of bona fide purchase for value.

[Reg. Oct. 16, 1894]

§ 132.11 *Transfer and assignment of recertified rights.* (a) The transfer and assignment of soldiers' additional rights recertified to owners and bona fide purchasers under the act of August 18, 1894 (28 Stat. 397; 43 U. S. C. 276), may be written or printed upon a separate sheet or sheets of paper to be securely attached to the certificate.

(b) The assignments may be made in accordance with the forms printed in 30 L. D. 604, 605, or their substantial equivalents.

[Reg. May 8, 1901]

§ 132.12 *Attestation and acknowledgment of recertified rights.* Each assignment of a recertified right must be attested by two witnesses and duly acknowledged before some officer authorized to take acknowledgments of deeds in the county or district wherein the assignment is made, who shall certify that the assignor is well known to such officer, that he is the identical person to whom the soldier's additional right was recertified, and who executes the assignments thereof.

[Reg. May 8, 1901]

§ 132.13 *Allowance of application and issuance of final certificate.* A soldier's additional application does not segregate the land nor prohibit the filing of other applications for such land until after its allowance, pursuant to its acceptance by the Washington office. The entry and final certificate should bear the same date. The manager after collecting the fee and the original and final commissions will issue final certificate.

[Circ. 1808, 17 F. R. 346, Jan. 11, 1952]

§ 132.14 *Rule of approximation not permitted.* The rule of approximation will not be permitted in the location of soldiers' additional homestead rights whether in their entirety, partly, or in combination with other rights or parts thereof.

[Circ. 648, June 24, 1919]

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INT.-DUP. SEC., WASH., D.C. 5002

~~Obsolete – see memo 1-8-51~~

Billings D.O.

Ammendment to:
Circulars 1770 +
1758

See Cir. 1800 + 1824,
too.

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1862]

PART 259—DISPOSAL OF MATERIALS

SALES

Sections 259.11 and 259.12 (f) and (g) are amended to read as follows:

§ 259.11 *Bond.* In all sales in which payment in full is not made in advance, a bond of not less than 15 percent of the contract price of materials sold in the public-land States, or 25 percent of the contract price of materials sold in Alaska, must be furnished by the purchaser. In any sale the signing officer, in his discretion, may require a bond in excess of that amount. Bonds hereunder shall be executed on Form 4-057. The bond must be that of a corporate surety shown on an approved list issued by the Treasury Department, or a cash bond. United States bonds, or cash, may be furnished in lieu of a surety bond, if accompanied by a proper personal bond and power of attorney authorizing the Secretary, in case of default, to collect, sell, assign, or transfer the said bonds without notice, at public or private sale, free from any equity of redemption, and without appraisement or valuation.

§ 259.12 *Payment.* * * *

(f) In any sale of materials in the public-land States for which payment in installments is permitted, the purchaser shall make an initial payment equivalent to two installments as follows: One installment prior to the approval of the contract and the second installment within six months thereafter, or prior to the commencement of operations thereunder, whichever is earlier. The first installment shall be retained by the Government as additional security for the full and faithful performance of the contract, and shall be applied in whole or in part toward the final installment thereunder. On the basis of his initial payment, the purchaser may sever or extract materials under the contract of a value not to exceed one-half of such initial payment. The remaining installments shall become due and payable without prior notice whenever the value of the materials severed or extracted under the contract shall equal the sum of the payments made by the purchaser (exclusive of one-half of the initial payments, as provided in this paragraph).

(g) In any sale of materials in Alaska for which payment in installments is permitted, the purchaser shall make payment of one installment prior to the approval of the contract. The purchaser may sever or extract materials under the contract of a value not to exceed such payment. The remaining installments shall become due and payable without prior notice whenever the value of the materials severed or extracted under the contract shall equal the sum of the payments made by the purchaser.

(Sec. 1, 61 Stat. 681; 43 U. S. C. 1185)

FRED G. AANDAHL,
Acting Secretary of the Interior.

NOVEMBER 4, 1953.

[F. R. Doc. 53-9483; Filed, Nov. 9, 1953; 8:46 a. m.]

Published in 18 F.R. 7059 of November 10, 1953

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1863]

PART 192—OIL AND GAS LEASES

SINGLE EXTENSION AS TO LANDS NOT IN A PRODUCING FIELD

See Circ 1840

Replaced by Circular 1894 (11/59)

Effective 60 days from issuance hereof, § 192.120 is amended to read as follows:

§ 192.120 *Single extension as to lands not in a producing field.* (a) The record title holder of any noncompetitive lease, maintained in compliance with the law and the regulations of this part, may, by filing his application therefor within the period of 90 days prior to the expiration date of the lease, obtain a single extension of the primary term of the lease for an additional five years, unless then otherwise provided by law, as to all of the leased lands or any legal subdivision thereof which, on the expiration date of the lease, are not within the known geologic structure of any producing oil or gas field or have not been withdrawn from leasing. A withdrawal, however, will prevent an extension only (1) if notice thereof was mailed to the lessee by registered mail at least 90 days prior to the expiration date of the lease and (2) if actual drilling operations on the leased lands were not commenced prior to the effective date of such withdrawal, or, if so commenced, have not been diligently prosecuted until and including such expiration date.

(b) The application for extension must be filed on Form 4-1238, "Application for Extension of Oil and Gas Lease,"[1] or unofficial copies of that form in current use and should be accompanied by the payment of the sixth year's rental, unless previously paid: *Provided*, That the unofficial copies are exact reproductions on one sheet of both sides of the official approved one-page form, and are without additions, omissions, or other changes, except that the copies shall include the following statement above the signature of the lessee: "This form is submitted in lieu of official Form 4-1238 and contains all of the provisions thereof as of the date of filing of this application." In addition, the name and address of the printer or other party issuing unofficial reproductions of the official form shall be printed thereon. Form 4-1238 or a valid reproduction of the official form, will also constitute approval of the extension when signed by an authorized officer.

(c) If during the 90 day period prior to the expiration date of the lease, the record title holder files an application or request for an extension not on the prescribed form or unofficial copies thereof, or fails to file the prescribed number of copies, or pay the sixth year's rental, a notice will be issued allowing him 30 days to do so. The application will be rejected if such filing or payment is not made within the time allowed.

(Sec. 32, 41 Stat. 450; 30 U. S. C. 189)

DOUGLAS MCKAY,
Secretary of the Interior.

NOVEMBER 25, 1953.

[F. R. Doc. 53-10079; Filed, Dec. 1, 1953; 8:50 a. m.]

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[1] Filed as part of the original document.

Published in 18 F.R. 7656 of December 2, 1953

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~~Obsolete - see memo 1-8-5~~

Billings L.O.

BUREAU OF LAND MANAGEMENT
LAND OFFICE
BILLINGS, MONTANA
DEC 21 1953
REC'D.

See Circ. 1822, 1825, 1834,
1842, 1844, 1847, & 1866

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter S—Rights-of-Way

[Circular 1864]

PART 244—RIGHTS-OF-WAY OTHER THAN FOR RAILROAD PURPOSES AND FOR LOGGING ROADS ON THE OREGON AND CALIFORNIA AND COOS BAY REVESTED LANDS

DOCUMENTARY EVIDENCE OF WATER RIGHT

Paragraph (b) of § 244.6 is amended to read as follows:

§ 244.6 *Documents which must accompany application.* * * *

(b) *Evidence of water right.* If the project involves the storage, diversion, or conveyance of water, the applicant must file a statement of the proper State official, or other evidence, showing that he has a right to the use of the water. Where the State official requires an applicant to obtain a right-of-way as a prerequisite to the issuance of evidence of a water right, if all else be regular, a right-of-way may be granted conditioned only upon the applicant's filing the required evidence of water right from the State official within a specified reasonable time. The conditional right-of-way will terminate at the expiration of the time allowed.

(R. S. 161, 453, 2478; 5 U. S. C. 22, 43 U. S. C. 2, 1201)

ORME LEWIS,
Acting Secretary of the Interior.

DECEMBER 1, 1953.

[F. R. Doc. 53-10189; Filed, Dec. 4, 1953; 8:47 a. m.]

Published in 18 F.R. 7845 of December 5, 1953

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INT.-DUP. SEC., WASH., D.C. 52740

Repl. by C-2235

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter A—Alaska

[Circular No. 1865]

PART 62—FUR FARMING

Part 62 is revised to read as follows:

FUR FARM LEASES

Sec.
62.1 Statutory authority.
62.2 Policy.
62.3 Definitions.
62.4 Area subject to lease.
62.5 Lands subject to lease.
62.6 Qualifications of applicants.
62.7 Application for lease.
62.8 Form of lease; rental and royalty; report of annual operations.
62.9 Assignments and subleases.
62.10 Renewal of leases.
62.11 Commencement of operations; stocking land.
62.12 Rights reserved; protection of improvements and roads.
62.13 Termination of lease; cancellation.
62.14 Removal of improvements and personal property.
62.15 Appeals.

AUTHORITY: §§ 62.1 to 62.15 issued under sec. 2, 44 Stat. 822; 48 U. S. C. 361.

FUR FARM LEASES

§ 62.1 *Statutory authority.* The act of July 3, 1926 (44 Stat. 821, 48 U. S. C. secs. 360, 361), authorizes the Secretary of the Interior to lease public lands on the mainland of or islands in Alaska, with the exception of the Pribilof Islands, for fur farming, for periods not exceeding ten years.

§ 62.2 *Policy.* (a) The authority to lease the public lands in Alaska for fur-farming purposes was granted in order to promote the development of the production of furs in Alaska.

(b) No lease for the purpose of raising beavers will be granted on any area already occupied by a beaver colony nor will any such lease be granted on streams or lakes where the activities of beavers may interfere with the run or spawning of salmon.

(c) In order to offer more people an opportunity to lease lands, and to avoid tying up large areas of land unnecessarily, fur-farming leases on public lands will not be granted for areas greater than are justified by the needs and experience of the applicant.

§ 62.3 *Definitions.* As used in this part: (a) "Secretary" means Secretary of the Interior; (b) "Director" means Director, Bureau of Land Management; (c) "Regional Administrator" means Regional Administrator, Bureau of Land Management, Anchorage, Alaska; and (d) "Manager" means Manager, Land Office, Bureau of Land Management, in whose district the lands involved are situated.

§ 62.4 *Area subject to lease.* (a) On the mainland such leases may be for an area not exceeding 640 acres. A lease may cover an entire island, provided the area thereof does not exceed 30 square miles, and provided the need for such entire island is clearly established. Islands so close together that animals can cross from one to the other, and whose combined area does not exceed 30 square miles, will be treated as one island. Islands having an area of more than 30 square miles will be treated as mainland.

(b) Where a lease is granted for an area in excess of 640 acres on an island, the manager may, after notice to the lessee, reduce the area to an amount not less than 640 acres, if he determines that the lessee cannot reasonably use all of the area for which the lease was granted.

§ 62.5 *Lands subject to lease.* (a) Vacant, unreserved, and unappropriated public lands are subject to lease.

(b) Except for lands under the jurisdiction of the Fish and Wildlife Service and the National Park Service, public lands withdrawn or reserved for any purpose are subject to lease, if the department or agency having jurisdiction thereof consents to the issuance of the lease.

§ 62.6 *Qualifications of applicants.* Any person who is a citizen of the United States, or any group or association composed of such persons, or any corporation organized under the laws of the United States, or of any State or Territory thereof, authorized to conduct business in Alaska may file an application.

§ 62.7 *Application for lease.*[1] An application for lease should be filed in duplicate in the proper land office. No specific form of application is required, but the application should contain or be accompanied by the following:

(a) Applicant's full name, post office address, the general nature of his present business, and the principal place of business.

(b) (1) A statement of the age and of the citizenship status, whether native-born or naturalized, of the applicant, if an individual, or of each partner or member of a partnership or association. A copartnership or an association applicant shall file a copy of whatever written articles of association its members have executed.

(2) A corporation shall file a certified copy of its articles of incorporation, evidence that it is authorized to transact business in the Territory of Alaska, and a copy of the corporate minutes or resolution authorizing the filing of the application and the execution of the lease.

(c) Description of the land for which the lease is desired, by legal subdivision, section, township, and range, if surveyed, and by metes and bounds, with the approximate area, if unsurveyed. The metes and bounds description should be connected by course and distance with some corner of the public-land surveys, if practicable, or with reference to rivers, creeks, mountains, towns, islands, or other prominent topographical points or natural objects or monuments.

(d) A statement as to the applicant's experience in and knowledge of fur farming.

(e) A statement as to the kind of fur-bearing animals to be raised, and, if foxes, the color type; the number of fur-bearing animals the applicant proposes to have on the leased land within one year from the date of the lease, and whether it is proposed to purchase or trap the stock; and that before commencing operations under any lease which may be issued the applicant will procure from the Alaska Game Commission, or its designated agents, whatever licenses are required under the Alaska Game Law (48 U. S. C. 191–213), and the act of April 30, 1946 (7 U. S. C. 433–434).

(f) A detailed statement of the reasons for the need for any area in excess of 640 acres but not exceeding 30 square miles, when the land applied for is comprised of an island, or islands.

(g) A statement of the nature and results of the investigation made by applicant as to whether the land and climate are suited to raising the kind of animals proposed to be stocked.

(h) A statement as to whether the land is occupied, claimed, or used by natives of Alaska or others; and, if so, the nature of the use and occupancy and the improvements thereon, if any.

(i) If beavers are to be raised, a statement as to (1) whether a beaver colony exists on the land, and (2) whether salmon streams or lakes are on or adjacent to the land proposed to be leased.

(j) A statement that the applicant is acting solely on his own account and not under any agreement or understanding with another.

(k) The serial numbers of all other applications filed or leases obtained under this act by applicant, or applicant's spouse or business associate, or in which applicant has a direct or indirect interest.

(l) The showing as to hot or medicinal springs required by § 292.8 of this chapter.

§ 62.8 *Form of lease; rental and royalty; report of annual operations.* (a) Leases will be issued on Form 4-230.

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[1] Title 18, U. S. C., sec. 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

(b) Prior to the issuance of a lease and annually thereafter, the lessee shall pay an advance rental of $5 per annum if the lease embraces 10 acres or less, a rental of $25 per annum if the leased area is more than 10 acres but not more than 640 acres, and a rental of $50 per annum if the leased area exceeds 640 acres.

(c) Within 60 days after the end of each lease year the lessee shall file with the Manager a report on Form 4–230a, in duplicate, showing his operations under the lease and his gross receipts thereunder from the sale of live animals and pelts for the preceding lease year. The lessee shall pay, at the time of filing the report, a royalty of 1 percent of such gross receipts deducting therefrom the amount of the advance rental payment made for such preceding lease year.

§ 62.9 *Assignments and subleases.* A proposed assignment of a lease, in whole or in part, or a sublease, must be filed in duplicate with the land office within 90 days from the date of its execution; must contain all of the terms and conditions agreed upon by the parties thereto; and must be supported by a statement that the assignee or sublessee agrees to be bound by the provisions of the lease. The assignee or sublessee must submit with the assignment or sublease the information or statements required by § 62.7 (a), (b), (d), (e), (j) and (k). No assignment or sublease will be recognized unless and until approved by the Manager.

§ 62.10 *Renewal of leases.* Upon an application filed in the proper land office within 90 days preceding the expiration date of the lease, if it is determined that a renewal lease should be granted, the lessee will be offered such lease by the Manager, upon such terms and conditions and for such duration as may be fixed, not exceeding 10 years. The filing of an application for renewal does not confer on the lessee any preference right to a renewal. The timely filing of an application will, however, authorize the exclusive fur-farming use of the lands by the lessee in accordance with the terms of the prior lease pending final action on the renewal application.

§ 62.11 *Commencement of operations; stocking lands.* The lessee shall, within one year from the date of issuance of the lease, commence operations by taking possession of the leased area, and by placing thereon within that period such improvements as may be needed for such operations and as will show good faith, and shall thereafter develop the fur-farming enterprise on the leased area with reasonable diligence. The lessee shall stock the leased area with the minimum of fur-bearing animals required by the lease within the periods specified in the lease.

§ 62.12 *Rights reserved; protection of improvements and roads.* Nothing in this part or any lease issued under this part shall interfere with or prevent:

(a) The prospecting, locating, development, entering, leasing, or patenting of mineral resources in the leased area under laws applicable thereto.

(b) The use and disposal of timber or other resources on or in the leased area under applicable laws.

(c) The use and occupation of parts of leased areas for the taking, preparing, manufacturing, or storing of fish or fish products, or the utilization of the lands for purposes of trade or business, to the extent and in the manner provided by law, and as authorized by the Regional Administrator.

(d) The acquisition or granting of rights-of-way or easements under applicable laws and regulations.

(e) Hunting and fishing under applicable Federal and Territorial hunting and fishing laws and regulations, but the Regional Administrator may prohibit or restrict, or he may authorize the lessee to prohibit or restrict hunting or fishing on such parts of the leased area and for such periods as he may determine to be necessary in order to prevent any substantial interference with the purposes for which the lease is issued.

§ 62.13 *Termination of lease; cancellation.* (a) The manager may terminate a lease at the request of the lessee if the lessee shall make satisfactory showing that such termination will not adversely affect the public interest and that he has paid all charges due the Government thereunder.

(b) A lease may be canceled by the manager if the lessee shall fail to comply with any of the provisions of this part or of the lease, or shall devote the lease area primarily to any purpose other than the rearing of fur-bearing animals as authorized. No lease will be canceled until the lessee has been formally notified of such default and such default shall continue for 60 days after service of such notice.

§ 62.14 *Removal of improvements and personal property.* (a) Improvements or personal property may not be removed from the lands, except fur bearing animals disposed of in the regular course of business, unless all moneys due the United States under the lease have been paid. The lessee shall be allowed 90 days from the date of expiration or termination of the lease within which to remove his personal property and such improvements as are not disposed of in the manner set forth in paragraph (b) of this section, which he has a right to remove; if not removed or otherwise disposed of within the said period, such improvements or personal property shall become the property of the United States.

(b) Upon the expiration of the lease or the earlier termination thereof, the manager may, in his discretion and upon a written petition filed by the lessee within 30 days from the date of such expiration or termination, require the subsequent lease applicant, prior to the execution of a new lease, to agree to compensate the lessee for any improvements of a permanent nature that he may have placed upon the leased area for fur-farming purposes during the period of the lease. If the interested parties are unable to reach an agreement as to the amount of compensation, the amount shall be fixed by the manager. All such agreements, to be effective, must be approved by the manager. The failure of the subsequent lessee to pay the former lessee in accordance with such agreement will be just cause for cancellation of the lease.

§ 62.15 *Appeals.* An appeal may be taken from any decision of the manager to the Director; and from any decision of the Director to the Secretary of the Interior pursuant to Part 221 of this chapter.

NOTE: The reporting requirement of this regulation has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

DOUGLAS MCKAY,
Secretary of the Interior.

DECEMBER 9, 1953.

[F. R. Doc. 53-10397; Filed, Dec. 14, 1953; 8:45 a. m.]

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~~Obsolete - see memo 1-8-58~~

Billings
S.O.

1/15

See Circ. 1822, 1825, 1839, 1842, 1844, 1847, 1864

BUREAU OF LAND MANAGEMENT
LAND OFFICE
BILLINGS, MONTANA
JAN 15 1954
REC'D.

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter S—Rights-of-Way

[Circular 1866]

PART 244—RIGHTS-OF-WAY OTHER THAN FOR RAILROAD PURPOSES AND FOR LOGGING ROADS ON THE OREGON AND CALIFORNIA AND COOS BAY REVESTED LANDS

SUBPART I—RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR OIL AND NATURAL GAS PIPELINES AND PUMPING PLANT SITES UNDER THE MINERAL LEASING ACT

STATUTORY AUTHORITY; COMMON CARRIER STIPULATION

By the act of August 12, 1953 (67 Stat. 557, Pub. Law 253, 83d Cong.), section 28 of the act of February 25, 1920, as amended (41 Stat. 449, 49 U. S. C. 678; 30 U. S. C. 185), was further amended so as to except certain natural gas pipeline rights-of-way from the operation of the common carrier provisions of that section. In order to show such amendment, §§ 244.60 and 244.62 are amended to read as follows:

§ 244.60 *Statutory authority.* (a) Section 28 of the act of February 25, 1920 (41 Stat. 449), as amended by the acts of August 21, 1935 and August 12, 1953 (49 Stat. 678; 67 Stat. 557; 30 U. S. C. 185), authorizes the Secretary to grant rights-of-way through public lands, including the forest reserves of the United States, for pipeline purposes for the transportation of oil or natural gas to any applicant possessing the qualifications provided in section 1 of the act (41 Stat. 437; 30 U. S. C. 22, 48, 181) to the extent of the ground occupied by the said pipeline and 25 feet on each side of the same under such regulations and conditions as to survey, location, application. and use as may be prescribed by him, and upon the express conditions that such pipeline, if for oil, or for natural gas and not excepted from the common carrier provisions of section 28 of the act of February 25, 1920, as amended, as stated in paragraph (b) of this section, shall be constructed, operated and maintained as a common carrier and that every pipeline holder shall accept, convey, transport, or purchase without discrimination oil or natural gas produced from Government lands in the vicinity of the pipeline in such proportionate amount as the Secretary of the Interior may, after a full hearing, with due notice thereof to the interested parties, and a proper finding of facts, determine to be reasonable.[31]

(b) The amendatory act of August 12, 1953, cited in paragraph (a) of this section provides that the common carrier provisions of section 28 of the act of February 25, 1920, shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act (52 Stat. 821; 15 U. S. C. 717w) or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

§ 244.62 *Common carrier stipulation.* Each application for a pipeline right-of-way, if for oil, or for natural gas and the pipeline has not been excepted from the common carrier provisions of section 28 of the act of February 25, 1920, as amended, as stated in § 244.60 (b), must include the following stipulation:

> The applicant agrees to operate the pipeline as a common carrier in accordance with the provisions of the Mineral Leasing Act, and, within 30 days after the request of the Secretary of the Interior, to file rate schedule and tariff for the transportation of oil or gas, as the case may be, as such common carrier with any regulatory agency having jurisdiction over such transportation, as the Secretary may prescribe.

(R. S. 161, 453, 2478; 5 U. S. C. 22, 43 U. S. C. 2, 1201. Interpret or apply sec. 28, 41 Stat. 449, 67 Stat. 557; 30 U. S. C. 185)

DOUGLAS MCKAY,
Secretary of the Interior.

DECEMBER 11, 1953.

[F. R. Doc. 53-10490; Filed, Dec. 17, 1953; 8:45 a. m.]

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[31] By opinion of the Attorney General of January 3, 1941 (40 Op. Atty. Gen. 9), and departmental decision, Chiles P. Plummer, A-23988, February 24, 1945, this statute was construed as not applying to purchased or acquired lands as they are not considered public lands within the meaning of the act.

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INT.-DUP. SEC., WASH., D.C.53467

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[illegible]

[illegible]

[illegible]

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Circular No. 1867

Part 251—Airports and Aviation Fields

LEASING OF PUBLIC LANDS FOR AIRPORTS AND AVIATION FIELDS AND WITHDRAWALS OF SUCH LANDS FOR AIRPORT PURPOSES

Sec.
251.1 Statutory authority.
251.2 Lands which may be leased.
251.3 Prior valid rights.
251.4 Applications for lease.
251.5 Action by manager on application.
251.6 Report by Administrator, Civil Aeronautics Administration; execution of lease.
251.7 Lessee to make report within 6 months on airport equipment.
251.8 Inspection of airport by Civil Aeronautics Administration and report thereon.
251.9 Reasons for which lease may be canceled.
251.10 Period of lease; renewal thereof.
251.11 Annual rental.
251.12 Use of airport by Government departments and agencies; control for military purposes.
251.13 Regulations governing use of the airport.
251.14 Establishment of beacon lights, etc.; withdrawals therefor by the Director, Bureau of Land Management.
251.15 Segregation of land by application for lease; airport withdrawals which may be made by the Director, Bureau of Land Management.
251.16 Withdrawals for airport terminals to be made by public land order.
251.17 Appeals.

USE FOR AIRPORT PURPOSES BY PUBLIC AGENCIES UNDER FEDERAL AIRPORT ACT OF MAY 13, 1946, OF LANDS UNDER THE JURISDICTION OF THE DEPARTMENT OF THE INTERIOR

251.18 Statutory authority.
251.19 Definitions.
251.20 Request by Administrator for transfer of property interest.
251.21 Action on request.
251.22 Publication and posting required where fee title to public lands is to be transferred.
251.23 Special provisions in instrument of transfer.

NOTE: The regional administrators and the managers have been authorized to act on matters relating to airport leases under §§ 251.1–251.17, and on matters involving the Federal Airport Act arising under §§ 251.18–251.23, up to the issuance of patents. See orders listed in subparagraphs (1) of paragraphs (a), (b) and (c) and in subparagraphs (3) of paragraphs (a) and (b) in note to this chapter.

AUTHORITY: §§ 251.1 to 251.23 issued under R. S. 2478, sec. 1, 45 Stat. 728, as amended; 43 U. S. C. 1201, 49 U. S. C. 211.

LEASING OF PUBLIC LANDS FOR AIRPORTS AND AVIATION FIELDS AND WITHDRAWALS OF SUCH LANDS FOR AIRPORT PURPOSES

§ 251.1 *Statutory authority.* The act of May 24, 1928 (45 Stat. 728; 49 U. S. C. 211–214), as amended by the act of August 16, 1941 (55 Stat. 621), authorizes the Secretary of the Interior in his discretion and under such regulations as he may prescribe, to lease for use as a public airport, any contiguous, unreserved and unappropriated public lands, not to exceed 2,560 acres in area. It also authorizes him to grant permission for the establishment of beacon lights and other air navigation facilities, except terminal airports, upon unreserved and unappropriated public lands and to withdraw such lands for such purposes.

[Circ. 1496, 6 F. R. 5019]

§ 251.2 *Lands which may be leased.* Any contiguous unreserved and unappropriated public lands, surveyed or unsurveyed, not exceeding 2,560 acres in area, may be leased under the provisions of the act of May 24, 1928.

[Circ. 1161, Aug. 22, 1928, as amended by Circ. 1496, 6 F. R. 5019]

§ 251.3 *Prior valid rights.* All leases will be subject to valid existing rights initiated prior to the date the application for lease is filed.

[Circ. 1161, Aug. 22, 1928]

§ 251.4 *Applications for lease.*[1] Applications for lease should be in triplicate, addressed to the Director of the Bureau of Land Management, and filed in the proper district land office. Applications will be limited to citizens of the United States, or associations of such citizens, to corporations organized under the laws of the United States or of any State or Territory thereof, and municipalities. No specific form of application is required, and no blanks will be furnished, but the application which must be signed by the applicant, but need not be under oath, should include in substance the following points:

(a) Applicant's name and post-office address.

(b) If a corporation, a certified copy of the articles of incorporation.

(c) If a city or town, evidence of authority of the mayor or other officer who may be authorized to execute such lease.

(d) Description of the land for which the lease is desired by legal subdivisions, if surveyed, and by metes and bounds, if unsurveyed.

[Circ. 1161, Aug. 22, 1928; see also item 3 of Note to chapter]

§ 251.5 *Action by manager on application.* After assignment of a current serial number and due notations on his records, the manager will forward the application to the Bureau of Land Management. A status report of all the land applied for should be furnished with each application.

[Circ. 1161, Aug. 22, 1928; see also item 3 of Note to chapter]

§ 251.6 *Report by Administrator, Civil Aeronautics Administration; execution of lease.* Upon receipt of the application in the Bureau of Land Management, one copy wil be referred to the Administrator, Civil Aeronautics Administration, for consideration as to what fuel facilities, lights, and other furnishings are necessary to meet the rating set by that department. After the Administrator, Civil Aeronautics Administration, has reported, a lease on Form 4–455 in quadruplicate will be prepared and sent to the manager for execution by the applicant. When executed and returned by the manager, the lease will be approved, if satisfactory and, if approved, a copy will be sent to the applicant through the district land office and a copy forwarded to the Administrator, Civil Aeronautics Administration.

[Circ. 1161, Aug. 22, 1928, as amended by Circ. 1540, 8 F. R. 7710; see also item 3 of Note to chapter]

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[1] 18 U. S. C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

Reprint December 15, 1953, of Circular No. 1161, August 22, 1928, Circular No. 1496, September 11, 1941, Circular No. 1498, October 17, 1941, Circular No. 1540, May 26, 1943, and Circular No. 1694, August 30, 1948.

§ 251.7 *Lessee to make report within 6 months on airport equipment.* The lessee shall, within 6 months from the date of the lease, equip the airport as required by the Administrator, Civil Aeronautics Administration, and file a report thereof in the district land office for forwarding to the Bureau of Land Management.

[Circ. 1161, Aug. 22, 1928, as amended by Circ. 1540, 8 F. R. 7710]

§ 251.8 *Inspection of airport by Civil Aeronautics Administration and report thereon.* At any time during the term of the lease the Administrator, Civil Aeronautics Administration, may have an inspection made of the airport, and if it does not comply with the ratings set by the Civil Aeronautics Administration that fact, with a statement as to wherein it fails, will be referred to the Bureau of Land Management for appropriate action.

[Circ. 1161, Aug. 22, 1928, as amended by Circ. 1540, 8 F. R. 7710]

§ 251.9 *Reasons for which lease may be canceled.* The Director, Bureau of Land Management, may, in his discretion, cancel a lease issued under the act of May 24, 1928, for any of the following reasons: If the lessee fails to use the leased premises or any part thereof, or uses it or any part thereof for a purpose foreign to the proper use, or shall fail to pay the annual rental or any part thereof, or shall fail to maintain the premises according to the ratings set by the Civil Aeronautics Administration, or shall fail to comply with the regulations in this part or the terms of the lease.

[Circ. 1161, Aug. 22, 1928, as amended by Circ. 1540, 8 F. R. 7710]

§ 251.10 *Period of lease; renewal thereof.* Leases under the act of May 24, 1928, shall be for a period not to exceed 20 years and may be renewed for like periods upon agreement of the Director, Bureau of Land Management, and the lessee.

[Circ. 1161, Aug. 22, 1928]

§ 251.11 *Annual rental.* Every lessee under the act of May 24, 1928 (45 Stat. 728; 49 U. S. C. 211–214), as amended August 16, 1941 (55 Stat. 621), shall pay to the lessor an annual rental of not less than $10 for an area not exceeding 640 acres, and not less than $5 for each additional 640 acres or fraction thereof. The rental terms of each lease shall be subject to reconsideration and revision at 3-year intervals. The lessee shall be required to submit a report to the Director, Bureau of Land Management, showing the facts as to the gross receipts within 90 days after each anniversary date of the lease. In the event the average annual gross receipts reported during any such interval from operations on the leased land, from all sources, exceed $5,000, the rentals for the succeeding interval or intervals may be increased to such reasonable amount as may be fixed by the Director, but not exceeding 1 percent of such average. Due consideration will be given in fixing the rentals to all pertinent facts and circumstances, including other holdings of the lessee, if any, in connection with which the receipts are obtained. The first annual rental payment shall be made when the application is filed in the district land office. All subsequent payments shall be paid in advance on or before the anniversary date of the lease.

[Circ. 1498, 6 F. R. 5469]

§ 251.12 *Use of airport by Government departments and agencies; control for military purposes.* The lessee shall agree that all departments and agencies of the United States operating aircraft shall have free and unrestricted use of the airport and with the approval of the Director, Bureau of Land Management, any departments or agencies shall have the right to erect and install therein such structures and improvements as are deemed advisable. Whenever the President may deem it necessary for military purposes, the Secretary of the Army may assume full control of the airports.

[Circ. 1161, Aug. 22, 1928]

§ 251.13 *Regulations governing use of the airport.* The lessee will submit to the Administrator, Civil Aeronautics Administration, for his approval, regulations to govern the use of the airport.

[Circ. 1161, Aug. 22, 1928, as amended by Circ. 1540, 8 F. R. 7710]

§ 251.14 *Establishment of beacon lights, etc.; withdrawals therefor by the Director, Bureau of Land Management.* Government departments and agencies operating aircraft may be granted permission to establish beacon lights and other navigation facilities, except terminal airports, on tracts of unreserved and unappropriated public lands of the United States of appropriate size, on application therefor, under the rules and regulations prescribed by §§ 251.1 to 251.13, except no rental will be charged. They will be withdrawn by the Director, Bureau of Land Management, for that purpose on a sufficient showing of the necessity of a withdrawal for such purpose. However, to insure uniformity and centralized control over such facilities, all such applications will be referred to the Administrator, Civil Aeronautics Administration for consideration and comment.

[Circ. 1161, Aug. 22, 1928, as amended by Circ. 1540, 8 F. R. 7710; see also item 3 of note to chapter]

§ 251.15 *Segregation of land by application for lease; airport withdrawals which may be made by the Director, Bureau of Land Management.* While an application for a lease of not exceeding 2,560 acres of public lands for a public aviation field under sections 1, 2, and 3 of the act of May 24, 1928 (45 Stat. 728, 729; 49 U. S. C. 211–213), will operate as a segregation of the lands described therein from the time such application is filed in the proper district land office, the Director is given no authority to withdraw public lands for terminal airports. He may, however, withdraw such lands for beacon lights or other air navigation purposes, including emergency or intermediate landing fields between terminal airports. Such withdrawals may be made on his own motion or at the instance of the Civil Aeronautics Administration or other Federal agencies, or lessees of terminal airports, or the applicants for such leases.

[Circ. 1161, Aug. 22, 1928, as amended by Circ. 1496, 6 F. R. 5019; see also item 3 of note to chapter]

§ 251.16 *Withdrawals for airport terminals to be made by public land order.* Prior to the approval of the act of May 24, 1928, public lands were subject to withdrawal by the President for public purposes, and the authority of the President to make such withdrawals is in no manner restricted by the act of May 24, 1928. Where, therefore, unappropriated public lands are desired by the Civil Aeronautics Administration or other Federal agencies for airport terminals, requests for their withdrawal by a public land order may be submitted to the Director, Bureau of Land Management, for consideration. All requests for withdrawal should specifically state whether the area is desired for beacon lights, emergency or intermediate landing fields, or terminal airports.

[Circ. 1161, Aug. 22, 1928; see also item 3 of Note to chapter]

§ 251.17 *Appeals.* Any party aggrieved by any action of the Director may appeal to the Secretary of the Interior pursuant to Part 221 of this chapter.

[Circ. 1540, 8 F. R. 7710]

USE FOR AIRPORT PURPOSES BY PUBLIC AGENCIES UNDER FEDERAL AIRPORT ACT OF MAY 13, 1946, OF LANDS UNDER JURISDICTION OF THE DEPARTMENT OF THE INTERIOR

SOURCE: §§ 251.18 to 251.23 contained in Circular 1694, 13 F. R. 5212.

§ 251.18 *Statutory authority.* (a) Section 16 of the Federal Airport Act of May 13, 1946[1] (60 Stat. 179; 49 U. S. C. 1115) provides that whenever the Administrator of Civil Aeronautics determines that the use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under the act, or for the operation of any public airport, he shall file with the head of the Department or agency having control of such lands a request that such property interest therein as he may deem necessary be conveyed to the public agency sponsoring the project in question or owning or controlling the airport.

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[1] The regulations of the Civil Aeronautics Administration under this act are found in 14 CFR, Part 555.

(b) Upon receipt of the request from the Administrator of Civil Aeronautics, the head of the Department or agency having control of the lands in question is directed to determine whether the requested conveyance is inconsistent with the needs of the Department or agency and to notify the Administrator of his determination within a period of four months after receipt of the Administrator's request. Upon the determination of the head of the Department or agency that it is not so inconsistent, he is authorized and directed, with the approval of the President and the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested.

§ 251.19 *Definitions.* As used in the regulations in this part, unless the context requires otherwise, the following terms shall have the meaning indicated:

(a) "The act" means the Federal Airport Act of May 13, 1946 (60 Stat. 179; 49 U. S. C. 1101).

(b) "Secretary" means the Secretary of the Interior or his duly authorized representative.

(c) "Director" means the Director of the Bureau of Land Management or his duly authorized representative.

(d) "Administrator" means the Administrator of Civil Aeronautics or his duly authorized representative.

(e) "Applicant" means any public agency as defined in 14 CFR 555.4, which, either individually or jointly with one or more other such public agencies, submits to the Administrator, an application requesting that public lands or interests therein, be transferred to such applicant under the Federal Airport Act.

(f) "Property interest" means the title to or any other interest in land or any easement through or other interest in air space.

(g) "Instrument of transfer" includes a patent, deed, lease or other instrument transferring a property interest.

§ 251.20 *Request by Administrator for transfer of property interest.* Each request by the Administrator in behalf of the applicant for the transfer of a property interest in public lands or other federally owned lands under the jurisdiction of the Department of the Interior should be addressed to the Director, should be in duplicate, and should contain the following:

(a) A copy of the application filed by the requesting public agency with the Administrator.

(b) A description of the land, if surveyed, by legal subdivisions, specifying section, township, and range. Unsurveyed land should be described by metes and bounds with a tie to a corner of the public-land surveys if within two miles; otherwise a tie should be made to some prominent topographic feature and the approximate latitude and longitude should be given when practicable.

§ 251.21 *Action on the request.* (a) The Secretary will determine whether the requested transfer is inconsistent with the needs of the Department or any agency thereof, and if it is not, the covenants, terms and conditions, if any, under which such transfer should be made. Any such conveyance will be made subject to valid existing rights of record, and to those disclosed as a result of posting, publication, or otherwise.

(b) Ordinarily where the lands involved are situated within a national park or monument or within an Indian reservation the transfer will not be authorized.

§ 251.22 *Publication and posting required where fee title to public lands is to be transferred.* Before a transfer of fee title to public lands is made, the Bureau of Land Management will require the applicant to publish, at its own expense, in a newspaper of general circulation in the county in which the land is situated, a notice stating that a request has been made by the Administrator on behalf of the applicant (giving its name and address) to acquire title to public lands (describing them) under the act, for the purpose of carrying out a project under the act, or for the operation of a public airport, as the case may be, and that the purpose of the notice is to give persons claiming an interest in the land or having bona fide objections to the proposed transfer an opportunity to file with the Director, Washington 25, D. C., within 30 days after the date of the first publication, a protest, together with evidence that the protest has been served on the applicant. If the notice is published in a daily paper, the notice should be published for four consecutive weeks in the Wednesday issue, if a weekly, in four consecutive issues, and if a semi-weekly or tri-weekly, in any of the issues on the same day each week for four consecutive weeks. The notice will also be posted during the entire period of publication in the district land office, Bureau of Land Management, for the district in which the lands are situated; or if there is no district land office, in the office of the Director, Washington, D. C. No transfer will be made until proof of publication and posting of the notice has been filed with the Director.

§ 251.23 *Special provisions in the instrument of transfer.* Each instrument of transfer made hereunder of fee title or a lesser estate in the lands shall contain:

(a) The covenants, terms and conditions requested by the Administrator, as well as those required for the protection of the Department of the Interior or any agency thereof.

(b) A reservation to the United States of fissionable source materials pursuant to the act of August 1, 1946 (60 Stat. 755; 42 U. S. C. 1801) where public lands are involved, and pursuant to Executive Order 9908 of December 5, 1947, 3 CFR 1947 Supp., where non-public lands are involved.

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Obsolete - see memo 1-8-58

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See Circ. 1799

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1868]

PART 234—RECLAMATION OF ARID LANDS IN NEVADA

DEVELOPMENT AND UTILIZATION OF SUBTERRANEAN WATERS FOR IRRIGATION PURPOSES

Section 234.11 is amended to read as follows:

§ 234.11 *Disposal of permit lands, after patent.* On the issuance of patent, the remaining area within the limits of the land embraced in the permit will thereafter be subject to classification and disposition under section 7 of the act of June 28, 1934 (48 Stat. 1272), as amended by the act of June 26, 1936 (49 Stat. 1976; 43 USC 315f).

(Sec. 9, 41 Stat. 295; 43 U. S. C. 360)

DOUGLAS MCKAY,
Secretary of the Interior.

DECEMBER 17, 1953.

[F. R. Doc. 53-10653; Filed, Dec. 23, 1953; 8:46 a. m.]

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1870]

PART 185—GENERAL MINING REGULATIONS

SUBPART D—PROCEDURE TO OBTAIN PATENT

LODE CLAIMS; EVIDENCE OF TITLE

See Circ. 1785, 1278 + 1820

Replaced by 1941

Section 185.56 is amended to read as follows:

§ 185.56 *Evidence of title.* (a) Each patent application must be supported by either a certificate of title or an abstract of title certified to by the legal custodian of the records of locations and transfers of mining claims or by an abstracter of titles. The certificate of title or certificate to an abstract of title must be by a person, association, or corporation authorized by the State laws to execute such a certificate and acceptable to the Bureau of Land Management.

(b) A certificate of title must conform substantially to Form 4–1246.

(c) Each certificate of title or abstract of title must be accompanied by single copies of the certificate or notice of the original location of each claim, and of the certificates of amended or supplemental locations thereof, certified to by the legal custodian of the record of mining locations.

(d) A certificate to an abstract of title must state that the abstract is a full, true, and complete abstract of the location certificates or notices, and all amendments thereof, and of all deeds, instruments, or actions appearing of record purporting to convey or to affect the title to each claim.

(e) The application for patent will be received and filed if the certificate of title or an abstract is brought down to a day reasonably near the date of the presentation of the application and shows full title in the applicant, who must as soon as practicable thereafter file a supplemental certificate of title or an abstract brought down so as to include the date of the filing of the application. Publication will not be ordered until the showing as to title is thus completed and the manager is satisfied that full title was in the applicant on the day of the filing of the application.

(R. S. 2478; 43 U. S. C. 1201)

DOUGLAS MCKAY,
Secretary of the Interior.

MARCH 12, 1954.

[F. R. Doc. 54–1895; Filed, Mar. 17, 1954; 8:45 a. m.]

Published in 19 F.R. 1487 of March 18, 1954

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Billings L.O.

File Copy

See Circ. 1781 + 1821 to

Replaced by Circular 1894 (11/58)

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1871]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES AND LICENSES

SUSPENSION OF OPERATIONS AND PRODUCTION

Section 191.26 is amended to read as follows:

§ 191.26 *Suspension of operations and production.* (a) Applications by lessees for relief from the producing requirements or from all operating and producing requirements of mineral leases shall be filed in triplicate in the office of the regional oil and gas supervisor for oil and gas leases, and in the office of the regional mining supervisor for all other leases.[1] As to oil and gas leases, no suspension of operations and production will be granted on any lease in the absence of a well capable of production on the leasehold, except where the Secretary directs a suspension in the interest of conservation. Complete information must be furnished showing the necessity for such relief.

(b) The term of any lease will be extended by adding thereto any period of suspension of all operations and production during such term pursuant to any direction or assent of the Secretary.

(c) A suspension shall take effect as of the time specified in the direction or assent of the Secretary. Rental and minimum royalty payments will be suspended during any period of suspension of all operations and production directed or assented to by the Secretary, beginning with the first day of the lease month on which the suspension of operations and production becomes effective or, if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension of rental and minimum royalty payments shall end on the first day of the lease month in which operations or production is resumed. Where rentals are creditable against royalties and have been paid in advance, proper credit will be allowed on the next rental or royalty due under the lease.

(d) No lease will be deemed to expire by reason of a suspension of production only pursuant to any direction or assent of the Secretary.

(e) If there is a well capable of producing on the leased premises and all operations and production are suspended pursuant to any direction or assent of the Secretary, the commencement of drilling operations only will be regarded as terminating the suspension as to operations but not as to production, and as terminating the period of suspension to be added to the term of the lease as provided in paragraph (b) of this section and the period of suspension of rental and minimum royalty payments as provided in paragraph (c) of this section. However, as provided in paragraph (d) of this section, the term of the lease will not be deemed to expire so long as the suspension of production remains in effect.

(f) The minimum annual production requirements of a lease issued under the act for coal, phosphate, potassium, sodium, oil shale or sulphur shall be proportionately reduced for that portion of a lease year for which suspension of operations and production is directed or granted by the Secretary of the Interior in the interest of conservation.

(Sec. 32, 41 Stat. 450; 30 U. S. C. 189)

DOUGLAS MCKAY,
Secretary of the Interior.

MARCH 29, 1954.

[F. R. Doc. 54-2345; Filed, Apr. 1, 1954; 8:45 a. m.]

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[1] By Departmental Order No. 2699 and Geological Survey Order No. 218 of August 11, 1952, the regional oil and gas supervisors and the regional mining supervisors are authorized to act on applications for suspension of operations or production or both filed pursuant to this section and to terminate suspensions of this kind which have been or may be granted.

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TITLE 43—PUBLIC LANDS: INTERIOR

BUREAU OF LAND MANAGEMENT
LAND OFFICE
BILLINGS, MONTANA
MAY 3 1954
REC'D. Office Copy

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1872]

PART 140—GENERAL REGULATIONS GOVERNING COLOR-OF-TITLE CLAIMS

Part 140 is completely revised, to read as follows:

Sec.
140.1 Statutory authority.
140.2 Definition.
140.3 Classes of claims.
140.4 Who may apply.
140.5 Description of lands applied for.
140.6 Application.
140.7 Presentation and verification of factual statements.
140.8 Minerals.
140.9 Sale price of land.
140.10 Acreage limitation.
140.11 Payment.
140.12 Publication; protests.

AUTHORITY: §§ 140.1 to 140.12 issued under R. S. 2478; 43 U. S. C. 1201.

§ 140.1 *Statutory authority.* The act of December 22, 1928 (45 Stat. 1069; 43 U. S. C. 1068, 1068a), as amended by the act of July 28, 1953 (67 Stat. 227, Public Law 159, 83d Congress), authorizes the issuance of patent for not to exceed 160 acres of public lands held under claim or color of title of either of the two classes described in § 140.3, upon payment of the sale price of the land.

§ 140.2 *Definition.* "The act", when used in this part, means the act of December 22, 1928 (45 Stat. 1069; 43 U. S. C. 1068, 1068a), as amended by the act of July 28, 1953 (67 Stat. 227, 43 U. S. C. 1068a).

§ 140.3 *Classes of claims.* The claims recognized by the act will be referred to in this part as claims of class 1, and claims of class 2. A claim of class 1 is one which has been held in good faith and in peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color of title for more than 20 years, on which valuable improvements have been placed, or on which some part of the land has been reduced to cultivation. A claim of class 2 is one which has been held in good faith and in peaceful, adverse possession by a claimant, his ancestors or grantors, under claim or color of title for the period commencing not later than January 1, 1901, to the date of application, during which time they have paid taxes levied on the land by State and local governmental units.

§ 140.4 *Who may apply.* Any individual, group, or corporation authorized to hold title to land in the State and who believes he has a valid claim under color of title may make application.

§ 140.5 *Description of lands applied for.* Application under the act may be made for surveyed or unsurveyed lands. If unsurveyed, the description must be sufficiently complete to identify the location, boundary, and area of the land and, if possible, the approximate description or location of the land by section, township, and range. If unsurveyed land is claimed, final action will be suspended until the plat of survey has been officially filed.

§ 140.6 *Application.* (a) An application for a claim of class 1 or of class 2 must be filed in duplicate on Form 4-1250.[1] It must be filed with the land office for the district in which the land is situated, or, if there is no land office for the district in which the land is situated, with the Director, Bureau of Land Management, Washington 25, D. C.

(b) Every application must be accompanied by a filing fee of $10, which will be nonreturnable.

(c) The application must be in typewritten form, or in legible handwriting, and it must be completely executed and signed by the applicant.[2]

(d) Every applicant must furnish information required in the application form concerning improvements, cultivation, conveyances of title, taxes, and related matters.

§ 140.7 *Presentation and verification of factual statements.* (a) Information relating to all record and nonrecord conveyances, or to nonrecord claims of title, affecting the land shall be itemized on Form 4-1251.[1] The statements of record conveyances must be certified by the proper county official or by an abstractor. The applicant may be called upon to submit documentary or other evidence relating to conveyances or claims. Abstracts of title or other documents which are so requested will be returned to the applicant.

(b) Applicants for claims of class 2 must itemize all information relating to tax levies and payments on the land on Form 4-1252,[1] which must be certified by the proper county official or by an abstractor.

§ 140.8 *Minerals.* (a) All patents issued under the act will reserve to the United States all fissionable source materials.

(b) Any applicant who satisfied all requirements for a claim of class 1 or of class 2 commencing not later than January 1, 1901, to the date of application and who so requests in the application will receive a patent conveying title to all other minerals except:

(1) Any minerals which, at the time of approval of the application, are embraced by an outstanding mineral lease or

(2) Any minerals for which the lands have been placed in a mineral withdrawal.

All other patents will reserve all minerals to the United States.

(c) All mineral and fissionable material reservations will include the right to prospect for, mine, and remove the same in accordance with applicable law.

§ 140.9 *Price of land.* The land applied for will be appraised on the basis of its fair market value at the time of appraisal. However, in determination of the price payable by the applicant, value resulting from improvements or development by the applicant or his predecessors in interest will be deducted from the appraised price, and consideration will be given to the equities of the applicant. In no case will the land be sold for less than $1.25 per acre.

§ 140.10 *Acreage limitation.* No patent will be issued pursuant to an application under the act which exceeds 160 acres.

§ 140.11 *Payment.* Applicant will be required to make payment of the sale price of the land within the time stated in the request for payment.

§ 140.12 *Publication; protests.* (a) The applicant will be required to publish once a week for four consecutive weeks in accordance with § 106.18 of this chapter, at his expense, in a designated newspaper and in a designated form, a notice allowing all persons claiming the land adversely to file in the land office for the district in which the land is situated, or if there is no land office for the district in which the land is situated, with the Director, Bureau of Land Management, Washington 25, D. C., their objections to the issuance of patent under the application. A protestant must serve on the applicant a copy of the objections and furnish evidence of such service.

(b) The applicant must file a statement of the publisher, accompanied by a copy of the notice published, showing that publication has been had for the required time.

DOUGLAS MCKAY,
Secretary of the Interior.

APRIL 15, 1954.

[F. R. Doc. 54-3017; Filed, Apr. 21, 1954; 8:46 a. m.]

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[1] Filed as part of the original document.

[2] 18 U. S. C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

Published in 19 F.R. 2352 of April 22, 1954

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter C—Areas Subject to Special Laws

[Circular 1873]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

PERMITS FOR RIGHTS-OF-WAY FOR LOGGING ROADS; STATEMENT OF POLICY

Section 115.155 (h) is amended to read as follows:

§ 115.155 *Statement of policy.* * * *

(h) The Regional Administrator may, in his discretion, issue short term right-of-way permits for periods not exceeding three years, subject to one-year extensions in his discretion. Such permits shall specify the volume of timber which may be carried over the right-of-way and the area from which such timber may be logged. The permits shall be revocable by the Regional Administrator, the Director, or the Secretary for violation of their terms and conditions or of these regulations or if hazardous conditions result from the construction, maintenance or use of the rights-of-way by the permittees or those acting under their authority. As a condition for the granting of such permits, the applicant must comply with § 115.162 (a) (1), (2), and (d) to the extent that rights-of-way and road use rights are needed to remove government timber offered for sale in the same general area during the period for which the short term right-of-way is granted.

(28 Stat. 635, as amended; 43 U. S. C. 956)

DOUGLAS MCKAY,
Secretary of the Interior.

APRIL 16, 1954.

[F. R. Doc. 54-3052; Filed, Apr. 22, 1954; 8:45 a. m.]

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C-1874

LEASING AND OPERATING REGULATIONS FOR THE SUBMERGED LANDS OF THE OUTER CONTINENTAL SHELF

(43 C.F.R. PART 201)

(30 C.F.R. PART 250)

March 3, 1849

UNITED STATES
DEPARTMENT OF THE INTERIOR

CODE OF FEDERAL REGULATIONS

TITLE 30—MINERAL RESOURCES

CHAPTER II

GEOLOGICAL SURVEY

PART 250

OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

TITLE 43—PUBLIC LANDS: INTERIOR

CHAPTER I

BUREAU OF LAND MANAGEMENT

PART 201

MINERAL DEPOSITS IN THE OUTER CONTINENTAL SHELF

UNITED STATES
DEPARTMENT OF THE INTERIOR

REPRODUCED FROM
FEDERAL REGISTER
VOL. 19·NO. 90
MAY 8, 1954

PREFACE

This booklet includes the regulations governing the leasing of mineral deposits in the outer Continental Shelf (43 CFR, Part 201), which are administered by the Bureau of Land Management, and the regulations governing the conduct of mineral operations and development in the outer Continental Shelf, which are administered by the U. S. Geological Survey. For convenience, the Outer Continental Shelf Lands Act (67 Stat. 462) is included as an appendix. Thus, in one volume are presented the leasing regulations, the operating regulations, and the basic law concerning mineral development in the outer Continental Shelf adjacent to the United States.

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CODE OF FEDERAL REGULATIONS

TITLE 43–PUBLIC LANDS: INTERIOR

CHAPTER I

BUREAU OF LAND MANAGEMENT

PART 201

MINERAL DEPOSITS IN THE OUTER CONTINENTAL SHELF

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1874]

PART 201—MINERAL DEPOSITS IN THE OUTER CONTINENTAL SHELF

Pursuant to the authority vested in the Secretary of the Interior by the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462), and in accordance with the notices published in the FEDERAL REGISTER on February 11, 1954, February 16, 1954, and March 11, 1954 (19 F. R. 790, 879, 1371), wherein comments and objections were invited to the tentative regulations then and there printed, the following regulations governing the issuance and recognition of mineral leases covering submerged lands in the outer Continental Shelf, together with oil and gas and sulphur lease forms, and regulations governing operations under such leases are hereby prescribed and shall become effective on May 10, 1954.

NOTE: See also Title 30, Part 250, *supra*.

A new Part 201 is added, reading as follows:

GENERAL PROVISIONS

Sec.
201.1 Purpose and authority.
201.2 Persons qualified to hold leases
201.3 Leasing maps.
201.4 Helium.
201.5 *Payments of filing charges, bonuses, rentals and royalties.*

COOPERATIVE CONSERVATION PROVISIONS

201.10 Unit plans, pooling, and drilling agreements.
201.11 Application for approval of unit plan.
201.12 Pooling or drilling agreements.
201.13 Subsurface storage of oil or gas.
201.14 Directional drilling.

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201.20 Kind and term.
201.21 Notice of lease offer.
201.22 What must accompany bids.
201.23 Award of lease.
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RENTALS AND ROYALTIES

201.40 Rentals.
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201.42 Minimum royalty.
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BONDS

201.50 Amount of bond required of lessee.
201.51 Form of bond.

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201.60 Assignment of leases or interests therein.
201.61 Requirement for filing of transfers.
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TERMINATION OF LEASES

201.80 Relinquishment of leases or parts of leases.
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SUSPENSION OF OPERATIONS AND PRODUCTION: ROYALTY AND RENTAL RELIEF

201.90 Suspension of operations and production; royalty and rental relief.

MINERAL LEASES AFFECTED BY SECTION 6 OF OUTER CONTINENTAL SHELF LANDS ACT

201.110 Effect of regulations on provisions of lease.
201.111 Leases of other minerals.
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201.121 Geological and geophysical exploration; rights-of-way.
201.122 Leases of sulphur and other mineral.
201.123 Removal of property on termination of lease.
201.124 Remedies in case of default.
201.125 Heirs and successors in interest.

APPEALS

201.150 Appeals.

AUTHORITY: §§ 201.1 to 201.150 issued under sec. 5, 67 Stat. 464; 43 U. S. C. 1334. Interpret or apply secs. 6, 8, 67 Stat. 465, 468; 43 U. S. C. 1335, 1337.

GENERAL PROVISIONS

§ 201.1 *Purpose and authority.* The Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462), referred to in this part as "the act", among other things, authorizes the Secretary of the Interior to issue on a competitive basis leases for oil and gas, sulphur, and other minerals in submerged lands of the outer Continental Shelf, as defined in section 2 of the act. The inclusion of this part in this title shall not be construed as an interpretation that the laws and regulations pertaining to public lands are applicable to the submerged lands of the outer Continental Shelf.

§ 201.2 *Persons qualified to hold leases.* Mineral leases issued pursuant to section 8 of the act may be held only by citizens of the United States over 21 years of age, associations of such citizens, States, political subdivisions of a State, or private, public, or municipal corporations organized under the laws of the United States or of any State or Territory thereof.

§ 201.3 *Leasing maps.* (a) Any area of the outer Continental Shelf which has been appropriately platted as provided in paragraph (b) of this section is subject to lease for any mineral not included in a subsisting lease issued under the act or meeting the requirements of subsection (a) of section 6 of the act, unless before any lease is offered or issued the unit is (1) withdrawn from disposition pursuant to section 12 (a) of the act, or (2) designated as an area or part of an area restricted from operation under section 12 (d) of the act.

(b) As the need arises, the Bureau of Land Management will prepare official leasing maps of areas of the outer Continental Shelf, which will be made to conform so far as practicable to the method of tract designation established by the adjoining State. The area included in each mineral lease shall be described in accordance with the official leasing map.

(c) Each oil and gas lease issued pursuant to section 8 of the act shall cover a compact area, which shall not exceed 5,760 acres.

§ 201.4 *Helium.* Each lease issued or continued under the act shall be subject to a reservation by the United States of the ownership of and the right to extract helium from all gas produced from the leased area, subject to such rules and regulations as shall be prescribed by the Secretary of the Interior. In case the United States elects to take the helium, the lessee shall deliver all gas containing helium, or the portion of gas desired, to the United States at any point on the leased area in the manner required by the United States, for the extraction of helium in such plant or reduction works for that purpose as the United States may provide, whereupon the residue shall be returned to the lessee with no substantial delay in the delivery of gas produced from the well to the purchaser thereof. The lessee shall not suffer a diminution of value of the gas from which the helium has been extracted, or loss otherwise, for which he is not reasonably compensated, save for the value of the helium extracted. The United States shall have the right to erect, maintain, and operate on the leased area any and all reduction works and other equipment necessary for the extraction of helium.

* § 201.5 *Payments of filing charges, bonuses, rentals and royalties.* All payments to the United States required by the act or the regulations in this part shall be made to the oil and gas supervisor of the Geological Survey for the region in which the leased area is situated, except that payments of filing charges, bonuses and first year's rental shall be made to the manager of the appropriate field office,[1] Bureau of Land Management, unless otherwise directed by the Secretary. All payments should be made by check, bank draft, or money order payable to the United States Geological Survey, if the payments are made to the Geological Survey, or to the Bureau of Land Management, if the payments are made to that Bureau.

COOPERATIVE CONSERVATION PROVISIONS

§ 201.10 *Unit plans, pooling, and drilling agreements.* Section 5 (a) (1) of the act authorizes the Secretary in the interest of conservation to provide for unitization, pooling and drilling agreements. Such agreements may be initiated by lessees or where in the interest of conservation they are deemed necessary they may be required by the Secretary.

§ 201.11 *Application for approval of unit plan.* The procedure for obtaining the approval of a unit plan of development is contained in 30 CFR Part 226, "Unit or Cooperative Agreements".[1] All applications to unitize and all documents incident thereto shall be filed in the office of the oil and gas supervisor, Geological Survey, for the region in which the unit area is situated.

§ 201.12 *Pooling or drilling agreements.* (a) With the approval of the Secretary, pooling or drilling agreements may be made between lessees for the purposes of (1) utilizing a common drilling platform to develop adjacent or adjoining leases; (2) permitting operators or pipeline companies to enter into contracts involving a number of leases sufficient to justify operations on a large scale for the discovery, development, production or transportation of oil and gas, sulphur, or other minerals and to finance the same; or (3) for other purposes in the interest of conservation.

(b) A contract submitted for approval under these provisions should be filed with the oil and gas supervisor, together with enough copies to permit retention of 5 copies by the Department

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[1] See Title 30, Chapter II, Part 226, supra.

after approval. Complete details must be furnished in order that the Secretary may have facts upon which to make a definite determination and prescribe the conditions on which the contract is approved.

§ 201.13 *Subsurface storage of oil or gas.* (a) In order to avoid waste or to promote conservation of natural resources, and when it can be shown that no undue interference with operations under existing leases will result, the Secretary, upon application by the interested parties, may authorize the subsurface storage of oil or gas in the lands of the outer Continental Shelf, whether or not produced from the outer Continental Shelf. Such authorization will provide for the payment of such storage fee or rental on the stored oil or gas as may be determined adequate in each case, or, in lieu thereof, for a royalty other than that prescribed in any lease of the area involved when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease of an area used for the storage of oil or gas shall not be deemed to expire during the period of such storage and so long thereafter as oil or gas not previously produced is produced in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon.

(b) Applications for subsurface storage shall be filed in triplicate with the oil and gas supervisor and shall disclose the ownership of the lands or interests in the lands involved, the parties in interest, including lessees of other mineral interests, the storage fee, rental, or royalty offered to be paid for such storage and all essential information showing the necessity for such storage. Enough copies of the final agreement signed by the parties in interest shall be submitted for the approval of the Secretary to permit retention of 5 copies by the Department after approval.

§ 201.14 *Directional drilling.* A lease may be maintained in force by directional wells drilled under the leased area from surface locations on adjacent or adjoining land not covered by the lease. In such circumstances, drilling shall be considered to have commenced on the leased area when drilling is commenced on the adjacent or adjoining land for the purpose of directionally drilling under the leased area through any directional well surfaced on adjacent or adjoining land, and production, drilling, or reworking of any such directional well shall be considered production or drilling or reworking operations (as the case may be) on the leased area for all purposes of the lease.

ISSUANCE OF LEASES

§ 201.20 *Kind and term.* In accordance with the provisions of section 8 of the act, all leases will be issued competitively upon the Department's motion or upon a request describing the area and expressing an interest in leasing a unit or units addressed to the Director, Bureau of Land Management, Washington 25, D. C., hereinafter referred to as the Director, with a copy to the oil and gas supervisor. From time to time the Director may issue calls for the submission of requests for oil and gas or other mineral lease offerings in specified areas. Leases will be awarded to the highest qualified bidder on the basis specified in the notice of lease offer. All oil and gas leases shall be for a term of 5 years and so long thereafter as oil or gas may be produced from the leased area in paying quantities or drilling or well reworking operations, as approved by the Secretary, are conducted thereon. All sulphur leases shall be for a term of 10 years and so long thereafter as sulphur may be produced from the leased area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon. Other mineral leases shall be for such terms as may be prescribed by the Secretary at the time of offering the leases.

§ 201.21 *Notice of lease offer.* Notice of the offer of lands for lease will be given by publication at the expense of the United States in the FEDERAL REGISTER, as the official publication, and in such other publications as the Director may authorize and the first publication shall be at least 30 days prior to the date of sale. The notice will set the place, date, and hour at which the bids will be opened. All sealed bids in response to any such notice must be filed at the place, and prior to the time set for opening bids. The notice may contain special conditions which will become part of the lease to be issued.

§ 201.22 *What must accompany bids.* (a) A separate bid must be submitted for each lease unit described in the notice of lease offer. A bid may not be submitted for less than an entire unit.

Each bidder must submit with his bid a certified or cashier's check or bank draft on a solvent bank, or a money order or cash, for one-fifth of the amount of the cash bonus. If the bidder is an individual, he must submit with his bid a statement of his citizenship. If the bidder is an association (including a partnership), the bid shall be accompanied also by a certified copy of the articles of association or appropriate reference to the record of the Bureau of Land Management in which such a copy has already been filed, with a statement as to any subsequent amendments. If the bidder is a corporation, the following additional information shall be submitted with the bid:

* (1) A certified copy of the articles of incorporation and a copy either of the minutes of the meeting of the board of directors or of the by-laws indicating that the person signing the bid has authority to do so, or, in lieu of such a copy, a certificate by the secretary or the assistant secretary of the corporation to that effect, over the corporate seal or appropriate reference to the record of the Bureau of Land Management in connection with which such articles and authority have been previously furnished.

(b) All bidders are warned against violation of the provisions of Title 18 U. S. C. section 1860, prohibiting unlawful combination or intimidation of bidders.

§ 201.23 *Award of lease.* Following the public opening of the sealed bids as provided for in the notice of lease offer, the Director, subject to his right to reject any and all bids will award the lease to the successful bidder. In the event the highest bids are tie bids, tie bidders may file with the Director within 15 days after notification an agreement to accept the lease jointly, otherwise all bids will be rejected. If the Director fails to accept the highest bid for a lease within 30 days after the date on which the bids are opened, all bids for such lease will be considered rejected. Notice of his action will be transmitted promptly to the several bidders. If the lease is awarded, three copies of the lease will be sent to the successful bidder and he will be required within 30 days from his receipt thereof to execute them, pay the first year's rental, the balance of the bonus bid, and file a bond as required in § 201.50. Deposits on rejected bids will be returned. If the successful bidder fails to execute the lease or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under the act. If before the lease is executed on behalf of the United States the land is withdrawn or restricted from leasing, all payments made by the bidder will be refunded. If the awarded lease is executed by an agent acting in behalf of the bidder, the lease must be accompanied by evidence that the bidder authorized the agent to execute the lease. When the three copies of the lease are executed by the successful bidder and returned to the Director, the lease will be assigned a serial number and will be executed on behalf of the United States, and one fully executed copy will be mailed to the successful bidder.

§ 201.24 *Form.* Oil and gas leases will be issued on Form 4-1255, and sulphur leases on Form 4-1256. Other mineral leases will be issued on such forms as may be prescribed by the Secretary.

§ 201.25 *Dating of leases.* All leases issued under the regulations in this part will be dated and become effective as of the first day of the month following the date the leases are signed on behalf of the lessor, except that, when prior written request is made, a lease may be dated and become effective as of the first day of the month within which it is so signed.

RENTALS AND ROYALTIES

§ 201.40 *Rentals.* An annual rental shall be due and payable in advance on the first day of each lease year prior to discovery at the rate specified in the lease. The owner of any lease created by the assignment of a portion of a producing lease and on which assigned portion there is no discovery shall be required to pay an annual rental for such assigned portion at the rate per acre specified in the lease payable each lease year following the year in which the assignment became effective and prior to a discovery on such segregated portion.

§ 201.41 *Royalties.* Royalties shall be at the rate specified in the lease but in no event shall the royalty on oil and gas be less than 12½ percent of the amount or value of the production saved, removed or sold from the lease, nor on sulphur less than 5 percent of the gross production or value of the sulphur at the wellhead.

§ 201.42 *Minimum royalty.* Each lessee shall pay the minimum royalty specified in the lease at the end of each lease year beginning with the first lease year following a discovery on the lease.

§ 201.43 *Compensatory payments, extension of lease.* In the event that an oil and gas lessee makes compensatory payments as provided in 30 CFR 250.33 and in the event that the lease is not being maintained in force by other production of oil or gas in paying quantities or by other approved drilling or reworking operations, such payments shall be considered as the equivalent of production in paying quantities for all purposes of the lease.

BONDS

§ 201.50 *Amount of bond required of lessee.* The successful bidder prior to the issuance of an oil and gas or sulphur lease must furnish a corporate surety bond in the sum of $15,000 conditioned on compliance with all of the terms of the lease, unless he already maintains or furnishes a bond in the sum of $100,000 conditioned on compliance with the terms of oil and gas and sulphur leases held by him on the Outer Continental Shelf in the (a) Gulf of Mexico, (b) along the Pacific Coast, or (c) along the Atlantic Coast, as may be appropriate. An operator's bond in the same amount may be substituted at any time for the lessee's bond. The United States reserves the right to require additional security in the form of a supplemental bond or bonds or to increase the coverage of an existing bond if, after operations or production have begun, such additional security is deemed necessary. The amount of bond coverage on leases for other minerals will be determined at the time of the offer to lease and will be stated in the notice of lease offer. Where upon a default, the surety on an Outer Continental Shelf Mineral Lease Bond (Form 4–1258) makes payment to the Government of any indebtedness under a lease secured thereby, the face amount of such bond and the surety's liability thereunder shall be reduced by the amount of such payment. Thereafter, upon penalty of cancellation of all of the leases covered by such bond, the principal shall post a new bond on Form 4–1258 in the amount of $100,000 within 6 months after notice, or within such shorter period as the authorized officer of the Bureau of Land Management may fix. However, in lieu thereof, the principal may within that time file separate bonds for each lease. The provisions hereof may be made applicable to any bond on Form 4–1258 in force at the time of the approval of the amendment of this section by filing in the local office of the Bureau of Land Management in New Orleans, Louisiana, a written consent to that effect and an agreement to be bound by the provisions hereof executed by the principal and surety. Upon receipt thereof the bond will be deemed to be subject to the provisions of this section.

§ 201.51 *Form of bond.* Bonds furnished by lessee or operator for a single lease will be on Forms 4–1257 and 4–1260. The $100,000 bond will be on Form 4–1258. In place of a surety bond a lessee or operator may furnish his personal bond and deposit therewith United States bonds in a sum equal at their par value to the amount of the surety bond, such personal bonds as to a single lease to be on Forms 4–1261 and 4–1262, and as to areas, Forms 4–1259.

ASSIGNMENTS OR TRANSFERS

§ 201.60 *Assignment of leases or interests therein.* Leases, or any undivided interest therein, may be assigned in whole or as to any officially designated subdivision subject to the approval of the Director, to any one qualified under § 201.2 to take and hold a lease. Any assignment made under this section shall, upon approval, be deemed to be effective on and after the first day of the lease month following its filing in the Bureau of Land Management, Washington 25, D. C., unless at the request of the parties an earlier date is specified in the Director's approval. The assignor shall be liable for all obligations under the lease accruing prior to the approval of the assignment.

§ 201.61 *Requirements for filing of transfers.* (a) (1) All instruments of transfer of a lease or of an interest therein, including operating agreements, subleases, and assignments of record interests, must be filed in triplicate for approval within 90 days from the date of final execution with a statement over the transferee's own signature with respect to citizenship and qualifications similar to that required of a lessee and must contain all of the terms and conditions agreed upon by the parties thereto. Carried working interests, overriding royalty interests, or payments

out of production, may be created or transferred without requirement for filing or approval.

(2) An application for approval of any instrument required to be filed must be accompanied by a fee of $10, and an application not accompanied by payment of such a fee will not be accepted for filing. Such fee will not be returned even though the application later be withdrawn or rejected in whole or in part.

(b) Where an attorney in fact, in behalf of the holder of a lease, operating agreement or sublease signs an assignment of the agreement, lease, or interest or signs the application for approval there must be furnished evidence of the authority of the attorney in fact to execute the assignment or application and the statement required by § 201.22.

(c) Where an assignment creates a segregated lease a bond must be furnished in the amount prescribed in § 201.50. Where an assignment does not create separate leases the assignee, if the assignment so provides and the surety consents, may become a joint principal on the bond with the assignor.

(d) In order for the heirs or devisees of a deceased holder of a lease, or any interest therein, to be recognized by the Department as the lawful successor to such lease or interest, evidence of their status as such heirs or devisees must be furnished in the form of a certified copy of an appropriate order or decree of the court having jurisdiction of the distribution of the estate or, if no court action is necessary, the statements of two disinterested parties having knowledge of the facts or a certified copy of the will, and, in all cases, the statements of the heirs or devisees that they are the persons named as successors to the estate with evidence of their qualifications as provided in § 201.22. In the event such heirs or devisees are unable to qualify to hold the lease or interest they will nevertheless be recognized as the lawful successors of the deceased for a period of not to exceed 2 years from the date of death of their predecessor in interest.

§ 201.62 *Separate assignments required for transfer of record title to leases.* A separate instrument of assignment must be filed for each lease when transfers involve record titles. When transfers to the same person, association, or corporation, involving more than one lease are filed at the same time for approval, one request for approval and one showing as to the qualifications of the assignee will be sufficient.

§ 201.63 *Effect of assignment of particular tract.* (a) When an assignment is made of all of the record title to a portion of the acreage in a lease, the assigned and retained portions become segregated into separate and distinct leases. The assignee becomes a lessee of the Government as to the segregated tract and is bound by the terms of the lease as though he had obtained the lease from the United States in his own name, and the assignment after its approval will be the basis of a new record. Royalty, minimum royalty, and rental provisions of the original lease shall apply separately to each segregated portion.

(b) In the case of an assignment of a portion of an oil and gas lease the segregated leases shall continue in full force and effect for the primary term of the original lease and so long thereafter as oil or gas may be produced from the original leased area in paying quantities or drilling or well reworking operations as approved by the Secretary are conducted thereon.

TERMINATION OF LEASES

§ 201.80 *Relinquishment of leases or parts of leases.* A lease or any official designated subdivision thereof may be surrendered by the record title holder by filing a written relinquishment, in triplicate, with the Director's office. A relinquishment shall take effect on the date it is filed subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to abandon all wells on the land to be relinquished to the satisfaction of the oil and gas supervisor.

§ 201.81 *Cancellation of leases.* Any nonproducing lease issued under the act may be canceled by the Secretary of the Interior whenever the lessee fails to comply with any provision of the act or lease or applicable regulations in force and effect on the date of the issuance of the lease, if such failure to comply continues for 30 days after mailing of notice by registered letter to the lease owner at his record post office address. Any such cancellation is subject to judicial review as provided in section 8 (j) of the act upon the complaint of any person. Producing leases issued under the act may be canceled for such failure only by judicial proceedings in the manner

prescribed in section 5 (b) (2) of the act. Any lease issued under the act, whether producing or not, will be canceled by the Secretary of the Interior upon proof that it was obtained by fraud or misrepresentation, and after notice and opportunity to be heard has been afforded to the lessee.

SUSPENSION OF OPERATIONS AND PRODUCTION: ROYALTY AND RENTAL RELIEF

§ 201.90 *Suspension of operations and production; royalty and rental relief.* (a) In addition to the provisions of section 12 (c) and (d) of the act, in the event that the Director of the Geological Survey in the interest of conservation directs the suspension of both operations and production with respect to any lease no payment of rental or royalty will be required during the period of suspension; and the term of the lease will be extended by a period equivalent to the period of suspension. In the event that the Director of the Geological Survey assents, at the request of a lessee, to a suspension of both operations and production under a lease or directs or assents to a suspension of operations only or production only, the term of the lease will not be deemed to expire so long as the suspension remains in effect but the lessee will not be relieved of his obligation to pay rental, minimum royalty, or royalty, as the case may be, during the term of suspension. In the event a leased area contains only a well or wells capable of producing gas in paying quantities but which gas cannot be produced because of the lack of transportation facilities, the Director of the Geological Survey shall, upon application, grant producing relief subject to the conditions of this paragraph for a maximum period not to exceed five years commencing with the lease year beginning on or after the date of discovery, or the effective date of the regulations in this part, whichever is later. Any further suspension will be granted only pursuant to the other provisions of this paragraph. As to leases maintained under section 6 of the act which cover minerals in addition to oil and gas, suspensions may be made separately as to oil and gas or as to any other mineral designated in the suspension, order, or grant.

(b) In order to increase the ultimate recovery of minerals and in the interest of conservation, the Director of the Geological Survey, whenever he determines it necessary to promote development or finds that a lease cannot be successfully operated under the terms provided therein, may reduce the rental, minimum royalty, or royalty on the entire leasehold, or on any deposit, tract, or portion thereof segregated for royalty purposes. An application for any of the above relief shall be filed in triplicate with the Director of the Geological Survey. It must contain the serial number of the lease; the name of the record title holder; a description of the area included in the lease; the number, location, and status of each well that has been drilled; a tabulated statement for each month, covering a period of not less than six months prior to the date of filing the application, of the aggregate amount of minerals subject to royalty computed in accordance with the lease and applicable regulations. Every application must also contain a detailed statement of expenses and costs of operating the entire lease and of the income from the sale of any leased products, and all facts tending to show whether the wells or workings can be successfully operated upon the rental or royalty fixed in the lease. Where the application is for a reduction of royalty, full information shall be furnished as to whether royalties or payments out of production are paid to others than the United States, the amounts so paid, and efforts made to reduce them. The applicant must also file agreements of the holders of the lease and of royalty holders to a permanent reduction of all other royalties from the leasehold to an aggregate not in excess of one-half the Government royalties.

MINERAL LEASES AFFECTED BY SECTION 6 OF OUTER CONTINENTAL SHELF LANDS ACT

§ 201.110 *Effect of regulations on provisions of lease.* (a) As contemplated by section 6 (b) of the act, the preceding regulations in this part so far as they are applicable and the following regulations will supersede the provisions of any lease which is determined to meet the requirements of section 6 (a) of the act, to the extent that they cover the same subject matter, with the following exceptions: The provisions of a lease with respect to the area covered by the lease; the minerals covered by the lease, the rentals payable under the lease, the royalties payable under the lease (subject to the provisions of sections 6 (a) (8) and 6 (a) (9) of the act), and the term of the lease (subject to the provi-

sions of section 6 (a) (10) of the act and, as to sulphur, subject to the provisions of section 6 (b) (2) of the act) shall continue in effect and, in the event of any conflict or inconsistency, shall take precedence over those regulations.[2]

(b) A lease that meets the requirements of section 6 (a) of the act shall also be subject to all operating and conservation regulations applicable to the outer Continental Shelf, as well as the regulations relating to geophysical and geological exploratory operations and to pipeline rights-of-way in the outer Continental Shelf, to the extent that those regulations are not contrary to or inconsistent with the provisions of the lease relating to the area covered, the minerals covered, the rentals payable, the royalties payable, and the term of the lease.

§ 201.111 *Leases of other minerals.* The existence of a lease that meets the requirements of section 6 (a) of the act will not preclude the issuance of other leases of the same area for deposits of other minerals: *Provided,* That no lease of minerals other than those covered by the lease shall authorize or permit the lessee thereunder unreasonably to interfere with or endanger operations under the existing lease: *And provided further,* That no sulphur leases will be granted by the United States on any area while such area is included in a lease covering sulphur under section 6 (b) of the act.

§ 201.112 *Bonds.* Within 30 days from the effective date of the regulations in this part or within such further period or periods as may be fixed from time to time by the Director, the lessee under a lease meeting the requirements of section 6 (a) of the act must furnish a bond as provided in § 201.50.

§ 201.113 *Wells.* (a) After due notice in writing, the lessee shall drill and produce such wells as the Secretary may reasonably require in order that the leased area or any part thereof may be properly and timely developed and produced in accordance with good operating practice.

(b) At the election of the lessee, the lessee may drill and produce other wells in conformity with any system of well spacing or production allotments affecting the area, field, or pool in which the leased area or any part thereof is situated, which is authorized or sanctioned by applicable law or by the Secretary.

(c) The lessee shall drill and produce such wells as are necessary to protect the lessor from loss by reason of production on other properties, or in lieu thereof, with the consent of the oil and gas supervisor, to pay a sum determined by the supervisor as adequate to compensate the lessor for failure to drill and produce any such well. In the event that this lease is not being maintained in force by other production of oil or gas in paying quantities or by other approved drilling or reworking operations, such payments shall be considered as the equivalent of production in paying quantities for all purposes of this lease.

§ 201.114 *Inspection.* The lessee shall keep open at all reasonable times for the inspection of any duly authorized officer of the Department of the Interior, the leased area and all wells, improvements, machinery and fixtures thereon and all books, accounts, maps and records relative to operations and surveys or investigations on or with regard to the leased area or under the lease.

§ 201.115 *Diligence; compliance with regulations and orders.* The lessee shall exercise reasonable diligence in drilling and producing the wells herein provided for; shall carry on all operations in accordance with approved methods and practices including those provided in the operating and conservation regulations for the outer Continental Shelf; shall remove all structures when no longer required for operations under the lease to sufficient depth beneath the surface of the waters to prevent them from being a hazard to navigation and the fishing industry; and shall carry out at expense of the lessee all lawful and reasonable orders of the lessor relative to the matters in this section. On failure of the lessee so to do the lessor shall have the right to enter on the property and to accomplish the purpose of such orders at the lessee's cost: *Provided,* That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.

§ 201.116 *Freedom of purchase.* The lessee shall accord all workmen and employees directly engaged in any of the

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[2] Nothing herein should be construed to waive compliance with any provision of any State lease the subject matter of which is not covered in the regulations in this part.

operations under the lease complete freedom of purchase.

§ 201.117 *Nondiscrimination.* The lessee shall not discriminate against any employee, or applicant for employment, because of race, creed, color, or national origin, and shall require an identical provision to be included in all sub-contracts relating to operations under his lease.

§ 201.118 *Purchase of production.* In time of war, or when the President of the United States shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of the oil or gas produced from the leased area, as provided in section 12 (b) of the act.

§ 201.119 *Suspension of operations during war or national emergency.* Upon recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after August 7, 1953, the Secretary is authorized to suspend any or all operations under a lease, as provided in section 12 (c) of the act: *Provided,* That just compensation shall be paid by the United States to the lessee whose operations are thus suspended.

§ 201.120 *Restriction of exploration and operations.* The United States shall have the right, as provided in section 12 (d) of the act, to restrict from exploration and operations the leased area or any part thereof which may be designated by and through the Secretary of Defense, with the approval of the President of the United States, as, or as part of, an area of the outer Continental Shelf needed for national defense. So long as such designation remains in effect no exploration or operations may be conducted on the surface of the leased area or the part thereof included within the designation except with the concurrence of the Secretary of Defense. If operations or production under any lease within any such restricted area shall be suspended, any payments of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operations and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

§ 201.121 *Geological and geophysical exploration; rights-of-way.* The United States reserves the right to authorize the conduct of geological and geophysical exploration in the leased area which does not interfere with or endanger actual operations under the lease and the right to grant such easements or rights-of-way, upon, through, or in the leased area as may be necessary or appropriate to the working of other lands containing the deposits described in the act, and to the treatment and shipment of products thereof by or under authority of the Government, its lessees or permittees, and for other public purposes, subject to the provisions of section 5 (c) of the act where they are applicable and to all lawful and reasonable regulations and conditions prescribed by the Secretary thereunder.

§ 201.122 *Leases of sulphur and other mineral.* The United States reserves the right to grant sulphur leases and leases of any mineral other than oil, gas, and sulphur within the leased area or any part thereof, subject to the provisions of sections 8 (c), 8 (d), and 8 (e) of the act and all lawful and reasonable regulations prescribed by the Secretary thereunder: *Provided,* That no such sulphur lease or lease of other mineral shall authorize or permit the lessee thereunder unreasonably to interfere with or endanger operations under the lease which is continued under section 6 of the act.

§ 201.123 *Removal of property on termination of lease.* Upon the expiration of any lease, or the earlier termination thereof as provided in the regulations in this part, the lessee shall within a period of one year thereafter remove from the premises all structures, machinery, equipment, tools, and materials other than improvements needed for producing wells or for drilling or producing other leases, and other property permitted by the lessor to be maintained.

§ 201.124 *Remedies in case of default.* (a) Whenever the lessee fails to comply with any of the provisions of the act or of the lease or of the lawful and reasonable regulations issued within 90 days after the Secretary of the Interior has determined that the lease meets the requirements of section 6 (a) of the act, the lease shall be subject to cancellation as follows:

(1) If, at the time of such default, no well is producing, or is capable of producing, oil or gas in paying quantities

from the leased area, whether such well be drilled from a surface location within the leased area or be directionally drilled from a surface location on adjacent or adjoining lands the lease may be cancelled by the Secretary (subject to the right of judicial review as provided in section 8 (j) of the act) if such default continues for the period of 30 days after mailing of notice by registered letter to the lessee at the lessee's record post office address.

(2) If, at the time of such default, any well is producing, or is capable of producing, oil or gas in paying quantities from the leased area, whether such well be drilled from a surface location within the leased area or be directionally drilled from a surface location on adjacent or adjoining lands, the lease may be cancelled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 4 (b) of the act if such default continues for the period of 30 days after mailing of notice by registered letter to the lessee at the lessee's record post office address.

(b) If any such default continues for the period of 30 days after mailing of notice by registered letter to the lessee at the lessee's record post office address, the lessor may then exercise any legal or equitable remedy which the lessor may have; however, the remedy of cancellation of the lease may be exercised only under the conditions and subject to the limitations set out in paragraph (a) of this section, or pursuant to section 8 (i) of the act.

(c) A waiver of any particular default shall not prevent the cancellation of the lease or the exercise of any other remedy the lessor may have by reason of any other cause or for the same cause occurring at any other time.

§ 201.125 *Heirs and successors in interest.* Each obligation under any lease and under the regulations in this part shall extend to and be binding upon, and every benefit thereunder shall inure to, the heirs, executors, administrators, successors, or assigns of the lessee.

APPEALS

§ 201.150 *Appeals.* Any person aggrieved by any action taken by the Director of the Bureau of Land Management or the Director of the Geological Survey under this part has the right of appeal to the Secretary of the Interior in accordance with the conditions and limitations provided in §§ 221.73 to 221.76 of this chapter. Nothing contained in this part shall be construed to prevent any interested party from seeking judicial review as authorized by law.

Effective date: May 10, 1954.

Note: The record keeping or reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Douglas McKay,
Secretary of the Interior.

May 4, 1954.

LEASE FORMS

I. Oil and Gas Lease

Form 4–1255

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Cash bonus ---------- Office ----------
Rental rate ---------- Serial No. -------
Minimum royalty rate ------
Royalty rate --------------

OIL AND GAS LEASE OF SUBMERGED LANDS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT

This indenture of lease entered into and effective as of ----------, 19--, by and between the United States of America, hereinafter called the lessor, by the Director, Bureau of Land Management, and ---------------- -- hereinafter called the lessee, under, pursuant, and subject to the terms and provisions of the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462; 43 U. S. C., sec. 1331 et seq.), hereinafter referred to as the act, and to all lawful and reasonable regulations of the Secretary of the Interior (hereinafter referred to as the Secretary) when not inconsistent with any express and specific provisions herein, which are made a part hereof:

WITNESSETH:

SECTION 1. *Rights of lessee.* That the lessor, in consideration of a cash bonus and of the rents and royalties to be paid, and the conditions and covenants to be observed as herein set forth, does hereby grant and lease to the lessee the exclusive right and privilege to

drill for, mine, extract, remove and dispose of all oil and gas deposits except helium gas in or under the following-described area of the outer Continental Shelf (as that term is defined in the act):

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containing -------- acres, more or less (hereinafter referred to as the leased area), together with:

(a) The non-exclusive right to conduct within the leased area geological and geophysical explorations which are not unduly harmful to aquatic life;

(b) The right to drill water wells within the leased area and use free of cost, and to dispose of, water produced from such wells; and

(c) The right to construct or erect and to maintain within the leased area all artificial islands, platforms, fixed or floating structures, sea walls, docks, dredged channels and spaces, buildings, plants, telegraph or telephone lines and cables, pipelines, reservoirs, tanks, pumping stations, and other works and structures necessary or convenient to the full enjoyment of the rights granted by this lease,

for a period of 5 years and as long thereafter as oil or gas may be produced from the leased area in paying quantities, or drilling or well reworking operations, as approved by the Secretary, are conducted thereon; subject to any unitization or pooling agreement heretofore or hereafter approved by the Secretary which affects the leased area or any part thereof, the provisions of such agreements to govern the leased area or part thereof subject thereto where inconsistent with the terms of this lease.

SEC. 2. *Obligations of lessee.* In consideration of the foregoing, the lessee agrees:

(a) *Bonds.* To maintain at all times the bond required prior to the issuance of this lease and to furnish such additional security as may be required by the lessor if, after operations or production have begun, the lessor deems such additional security to be necessary.

(b) *Cooperative or unit plan.* Within 30 days after demand, to subscribe to and to operate under such reasonable cooperative or unit plan for the development and operation of the area, field, or pool, or part thereof, embracing lands included herein as the Secretary may determine to be practicable and necessary or advisable in the interest of conservation which plan shall adequately protect the rights of all parties in interest, including the United States.

(c) *Wells.* (1) To drill and produce such wells as are necessary to protect the lessor from loss by reason of production on other properties or, in lieu thereof, with the consent of the oil and gas supervisor, to pay a sum determined by the supervisor as adequate to compensate the lessor for failure to drill and produce any such well. In the event that this lease is not being maintained in force by other production of oil or gas in paying quantities or by other approved drilling or reworking operations, such payments shall be considered as the equivalent of production in paying quantities for all purposes of this lease.

(2) After due notice in writing, to drill and produce such other wells as the Secretary may reasonably require in order that the leased area or any part thereof may be properly and timely developed and produced in accordance with good operating practice.

(3) At the election of the lessee, to drill and produce other wells in conformity with any system of well spacing or production allotments affecting the area, field, or pool in which the leased area or any part thereof is situated, which is authorized or sanctioned by applicable law or by the Secretary.

(d) *Rentals and royalties.* (1) To pay rentals and royalties as follows:

Rentals. To pay the lessor on or before the first day of each lease year commencing prior to a discovery of oil or gas on the leased area, a rental of ------ per acre or fraction thereof.

Minimum royalty. To pay the lessor in lieu of rental at the expiration of each lease year commencing after discovery a minimum royalty of ------ per acre or fraction thereof or, if there is production, the difference between the actual royalty paid during the year and the prescribed minimum royalty, if the actual royalty paid is less than the minimum royalty.

Royalty on production. To pay the lessor a royalty of ------ percent in amount or value of production saved, removed, or sold from the leased area. Gas of all kinds (except helium, and gas used for purposes of production from and operations upon the leased area or unavoidably lost) is subject to royalty.

(2) It is expressly agreed that the Secretary may establish reasonable minimum values for purposes of computing royalty on products obtained from this lease, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, or area, to the price received by the lessee, to posted prices, and to other relevant matters. Each such determination shall be made only after due notice to the lessee and a reasonable opportunity has been afforded the lessee to be heard.

(3) When paid in value, such royalties on production shall be due and payable monthly on the last day of the calendar month next following the calendar month in which the production is obtained. When paid in production, such royalties shall be delivered at pipeline connections or in tanks provided by the lessee. Such deliveries shall be made at reasonable times and intervals and, at the lessee's option, shall be effected either (i) on or immediately adjacent to the leased area, without cost to the lessor, or (ii) at a more convenient point closer to shore or on shore, in which event the lessee shall be entitled to reimbursement for the reasonable cost of transporting the royalty substance to such delivery point. The lessee shall not

be required to provide storage for royalty taken in kind in excess of tankage required when royalty is paid in value. When payments are made in production the lessee shall not be held liable for the loss or destruction of royalty oil or other liquid products in storage from causes over which the lessee has no control.

(4) Rentals or minimum royalties may be reduced and royalties on the entire leasehold or any deposit, tract, or portion thereof segregated for royalty purposes may be reduced if the Secretary finds that, for the purpose of increasing the ultimate recovery of oil or gas and in the interest of conservation of natural resources, it is necessary, in his judgment, to do so in order to promote development, or because the lease cannot be successfully operated under the terms fixed herein.

(e) *Payments.* Unless otherwise provided by regulation or directed by the Secretary, to make rental, royalty, or other payments to the lessor, to the order of the Treasurer of the United States, and to tender such payments to the oil and gas supervisor, Geological Survey.

(f) *Contracts for disposal of products.* To file with the oil and gas supervisor, Geological Survey, not later than 30 days after the effective date thereof, copies of all contracts for the disposal of lease products; provided that the supervisor may relieve the lessee of this requirement, in which event the contracts shall be made available for inspection by the supervisor upon his request. Nothing in any such contract or in any approval thereof by the supervisor shall be construed or accepted as modifying any of the provisions of this lease, including, but not limited to, provisions relating to gas waste, taking royalty in kind, and the method of computing royalties due as based on a minimum valuation and in accordance with the regulations applicable to this lease.

(g) *Statements, plats, and reports.* At such times and in such form as the lessor may prescribe, to furnish detailed statements and reports showing the amounts and quality of all products saved, removed, and sold from the leased area, the proceeds therefrom, and the amount used for production purposes or unavoidably lost; also a plat showing development work and improvements on or with regard to the leased area.

(h) *Inspection.* To keep open at all reasonable times for the inspection of any duly authorized representative of the lessor, the leased area and all wells, improvements, machinery and fixtures thereon and all books, accounts and records relative to operations and surveys or investigations on or with regard to the leased area or under the lease.

(i) *Diligence.* To exercise reasonable diligence in drilling and producing the wells herein provided for; to carry on all operations in accordance with approved methods and practices including those provided in the operating and conservation regulations for the outer Continental Shelf; to remove all structures when no longer required for operations under the lease to sufficient depth beneath the surface of the waters to prevent them from being a hazard to navigation; to carry out at expense of the lessee all lawful and reasonable orders of the lessor relative to the matters in this paragraph, and that on failure of the lessee so to do the lessor shall have the right to enter on the property and to accomplish the purpose of such orders at the lessee's cost: *Provided,* That the lessee shall not be held responsible for delays or casualties occasioned by causes beyond the lessee's control.

(j) *Freedom of purchase.* To accord all workmen and employees directly engaged in any of the operations under this lease complete freedom of purchase.

(k) *Nondiscrimination.* Not to discriminate against any employee, or applicant for employment, because of race, creed, color or national origin, and to require an identical provision to be included in all sub-contracts relating to operations under this lease.

(l) *Assignment of lease.* To file for approval with the Bureau of Land Management, within 90 days from the date of final execution, any instrument of transfer of this lease, or any interest therein, including assignments of record title, operating agreements, and subleases. Carried working interests, overriding royalty interests, or payments out of production, may be created or transferred without requirement for filing or approval. Instruments required to be filed shall take effect upon approval as of the first day of the lease month following the date of filing unless at the request of the parties an earlier date is specified in such approval.

Sec. 3. *Reservations to lessor.* The lessor reserves:

(a) *Geological and geophysical exploration; rights-of-way.* The right to authorize the conduct of geological and geophysical exploration in the leased area which does not interfere with or endanger actual operations under this lease, and the right to grant such easements or rights-of-way, upon, through, or in the leased area as may be necessary or appropriate to the working of other lands containing the deposits described in the act, and to the treatment and shipment of products thereof by or under authority of the United States, its lessees or permittees, and for other public purposes, subject to the provisions of section 5 (c) of the act where they are applicable and to all lawful and reasonable regulations and conditions prescribed by the Secretary thereunder.

(b) *Leases of sulphur and other mineral.* The right to grant sulphur leases and leases of any mineral other than oil, gas, and sulphur within the leased area or any part thereof, subject to the provisions of section 8 (c), 8 (d), and 8 (e) of the act and all lawful and reasonable regulations prescribed by the Secretary thereunder: *Provided,* That no such sulphur lease or lease of other mineral shall authorize or permit the lessee

thereunder unreasonably to interfere with or endanger operations under this lease.

(c) *Purchase of production.* In time of war, or when the President of the United States shall so prescribe, the right of first refusal to purchase at the market price all or any portion of the oil or gas produced from the leased area, as provided in section 12 (b) of the act.

(d) *Taking of royalties.* All rights, pursuant to clause (3) of section 8 (b) of the act, to take royalties in the amount or value of production.

(e) *Fissionable materials.* All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable materials, contained, in whatever concentration, in deposits in the subsoil or seabed of the leased area or any part thereof, as provided in section 12 (e) of the act.

(f) *Helium.* Pursuant to section 12 (f) of the act, the ownership and the right to extract helium from all gas produced under this lease, subject to such rules and regulations as shall be prescribed by the Secretary.

(g) *Suspension of operations during war or national emergency.* Upon recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or President of the United States after August 7, 1953, the authority of the Secretary to suspend any or all operations under this lease, as provided in section 12 (c) of the act: *Provided,* That just compensation shall be paid by the lessor to the lessee.

(h) *Restriction of exploration and operations.* The right, as provided in section 12 (d) of the act, to restrict from exploration and operations the leased area or any part thereof which may be designated by and through the Secretary of Defense, with the approval of the President, as, or as part of, an area of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on the surface of the leased area or the part thereof included within the designation except with the concurrence of the Secretary of Defense; and if operations or production under this lease within any such restricted area shall be suspended, any payments of rentals, minimum royalty, and royalty prescribed by this lease likewise shall be suspended during such period of suspension of operations and production, and the term of this lease shall be extended by adding thereto any such suspension period, and the lessor shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

Sec. 4. *Directional drilling.* This lease may be maintained in force by directional wells drilled under the leased area from surface locations on adjacent or adjoining lands not covered by this lease. In such circumstances, drilling shall be considered to have been commenced on the leased area when drilling is commenced on the adjacent or adjoining land for the purpose of directionally drilling under the leased area, and production of oil or gas from the leased area through any directional well surfaced on adjacent or adjoining land or drilling or reworking of any such directional well shall be considered production or drilling or reworking operations (as the case may be) on the leased area for all purposes of this lease. Nothing contained in this paragraph is intended or shall be construed as granting to the lessee any leasehold interests, licenses, easements, or other rights in or with respect to any such adjacent or adjoining land in addition to any such leasehold interests, licenses, easements, or other rights which the lessee may have lawfully acquired under the act or from the lessor or others.

Sec. 5. *Surrender and termination of lease.* The lessee may surrender this entire lease or any officially designated subdivision of the leased area by filing with the Bureau of Land Management, a written relinquishment, in triplicate, which shall be effective as of the date of filing, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to abandon all wells on the area to be relinquished to the satisfaction of the oil and gas supervisor.

Sec. 6. *Removal of property on termination of lease.* Upon the expiration of this lease, or the earlier termination thereof as herein provided, the lessee shall within a period of one year thereafter remove from the premises all structures, machinery, equipment, tools, and materials other than improvements needed for producing wells or for drilling or producing on other leases and other property permitted by the lessor to be maintained on the area.

Sec. 7. *Remedies in case of default.* (a) Whenever the lessee fails to comply with any of the provisions of the act or this lease or the applicable regulations in force and effect on the date of issuance of this lease, the lease shall be subject to cancellation as follows:

(1) *Cancellation of non-producing lease.* If, at the time of such default, no well is producing, or is capable of producing, oil or gas in paying quantities from the leased area, whether such well be drilled from a surface location within the leased area or be directionally drilled from a surface location on adjacent or adjoining lands, this lease may be cancelled by the Secretary (subject to the right of judicial review as provided in section 8 (j) of the act) if such default continues for the period of 30 days after mailing of notice by registered letter to the lessee at the lessee's record post office address.

(2) *Cancellation of producing lease.* If, at the time of such default, any well is producing, or is capable of producing, oil or gas in paying quantities from the leased area, whether such well be drilled from a surface location within the leased area or be direc-

tionally drilled from a surface location on adjacent or adjoining lands, this lease may be cancelled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 4 (b) of the act if such default continues for the period of 30 days after mailing of notice by registered letter to the lessee at the lessee's record post office address.

(b) *Other remedies.* If any such default continues for the period of 30 days after mailing of notice by registered letter to the lessee at the lessee's record post office address, the lessor may then exercise any legal or equitable remedy which the lessor may have; however, the remedy of cancellation of this lease may be exercised only under the conditions and subject to the limitations set out above in paragraph (a) of this section, or pursuant to section 8 (i) of the act.

(c) *Effect of waiver of default.* A waiver of any particular default shall not prevent the cancellation of this lease or the exercise of any other remedy the lessor may have by reason of any other cause or for the same cause occurring at any other time.

SEC. 8. *Heirs and successors in interest.* Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

SEC. 9. *Unlawful interest.* No member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified, and during his continuance in office, and no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4 (a) (1), shall be admitted to any share or part in this lease or derive any benefit that may arise therefrom; and the provisions of section 3741 of the Revised Statutes, as amended (41 U. S. C. sec. 22), and sections 431, 432 and 433 of Title 18 of the United States Code, relating to contracts made or entered into, or accepted by or on behalf of the United States, form a part of this lease so far as the same may be applicable.

THE UNITED STATES OF AMERICA
By ____________________________
____________ ____________
(Title) (Date)
____
____
(Lessee)

IN WITNESS WHEREOF:

____
(Name and address)
____
(Name and address)

Witnesses to signature of lessee.

(If this lease is executed by a corporation, it must bear the corporate seal.)

II. Sulphur Lease

Form 4-1256

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Cash bonus ________ Office ________
Rental rate ________ Serial No. ________
Minimum royalty rate ________
Royalty rate ________

SULPHUR LEASE UNDER THE OUTER CONTINENTAL SHELF LANDS ACT

This indenture of lease entered into and effective as of __________, 19____, by and between the United States of America, hereinafter called the lessor, by the Director, Bureau of Land Management, and ______________________________________ hereinafter called the lessee, under, pursuant and subject to the terms and provisions of the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462; 43 U. S. C., sec. 1331 et seq.), hereinafter referred to as the Act, which is made a part hereof, and to all lawful and reasonable regulations of the Secretary of the Interior (hereinafter referred to as the Secretary) when not inconsistent with any express and specific provisions herein, which are made a part hereof:

WITNESSETH:

SECTION 1. *Rights of lessee.* That the lessor, in consideration of a cash bonus and of the rents and royalties to be paid, and the conditions and covenants to be observed as herein set forth, does hereby grant and lease to the lessee the exclusive right and privilege to drill for, mine, remove, and dispose of all the sulphur deposits in, upon, or under the following-described area of the outer Continental Shelf (as that term is defined in the act):

____
containing ________ acres, more or less (hereinafter referred to as the leased area), together with:

(a) The non-exclusive right to conduct within the leased area geological and geophysical explorations which are not unduly harmful to aquatic life;

(b) The right to drill water wells within the leased area and to use free of cost, and to dispose of, water produced from such wells; and

(c) The right to construct or erect and to maintain within the leased area all artificial islands, fixed structures, sea walls, docks, dredged channels and spaces, buildings, plants, telegraph or telephone lines and cables, pipelines, reservoirs, tanks, pumping stations, and other works and structures necessary or convenient to the full enjoyment of the rights granted by this lease, for a period of 10 years and so long thereafter as sulphur is being produced from the leased area or drilling, well reworking, plant construction, or other operations for the produc-

tion of sulphur, as approved by the Secretary, are being conducted thereon; subject to any unit agreement heretofore or hereafter approved by the Secretary, the provisions of said agreement to govern the leased area or part thereof subject thereto where inconsistent with the terms of this lease.

SEC. 2. *Obligations of lessee.* In consideration of the foregoing, the lessee agrees:

(a) *Bond.* To maintain at all times the bond required prior to the issuance of this lease and to furnish such additional security as may be required by the lessor if, after operations or production have begun, the lessor deems such additional security to be necessary.

(b) *Royalty.* To pay the lessor a royalty of ______ percent of the gross value at the wellhead of the sulphur produced. Such royalty shall be paid monthly in value or delivered in kind at the option of the lessor. It is expressly agreed that the Secretary may establish reasonable minimum values for purposes of computing royalty on any sulphur, due consideration being given to the highest price paid for a part or a majority of the production of like quality from the same general area, to the price received by the lessee, to posted prices, and other relevant matters, and, whenever appropriate, after notice and opportunity to be heard. When paid in value, such royalty on production shall be due and payable monthly on the last day of the calendar month following the calendar month in which the production is obtained. When paid in kind, such royalty shall be delivered in merchantable condition at the point of shipment from the lease.

Such deliveries shall be made at reasonable times and intervals and, at the lessee's option, shall be effected either (i) on or immediately adjacent to the leased area, without cost to the lessor, or (ii) at a more convenient point closer to shore or on shore, in which event the lessee shall be entitled to reimbursement for the reasonable cost of transporting the royalty substance to such delivery point. In no case shall the lessee be required to hold sulphur in storage beyond the last day of the calendar month next following the month in which produced nor be responsible or held liable for the loss or destruction of sulphur in storage from causes over which the lessee has no control.

(c) *Rentals.* To pay the lessor on or before the first day of each lease year commencing prior to a discovery of sulphur on the leased area, a rental of ______ per acre or fraction thereof.

(d) *Minimum royalty.* To pay the lessor in lieu of rental at the expiration of each lease year commencing after discovery a minimum royalty of ______ per acre or fraction thereof or, if there is production, the difference between the actual royalty paid during the year and the prescribed minimum royalty, if the actual royalty paid is less than the minimum royalty.

(e) *Payments.* Unless otherwise provided by regulation or directed by the Secretary, to make rental, royalty, or other payments to the lessor, to the order of the Treasurer of the United States, and to tender such payments to the oil and gas supervisor, Geological Survey.

(f) *Freedom of purchase.* To accord all workmen and employees directly engaged in operations under this lease complete freedom of purchase.

(g) *Statements, plats, and reports.* At such times and in such form as the lessor may prescribe, to furnish detailed statements and reports showing the amounts and quality of all products saved, removed, and sold from the leased area, the proceeds therefrom, and the amount used for production purposes or unavoidably lost; also a plat showing development work or improvements on or with regard to the leased area.

(h) *Diligence; prevention of waste; health and safety of workmen.* To develop and produce in commercial quantities, with reasonable diligence, skill and care in the operation of the property, the sulphur susceptible of such production in the leased area; to carry out, at the expense of the lessee, all reasonable orders of the lessor issued in pursuance of the operating regulations; to carry on all mining, reducing, refining, and other operations in accordance with approved methods and practice and in conformity with the operating regulations; to take all reasonable precaution to prevent damage to mineral deposits, injury to life, health, or property, or economic waste; to observe all laws relative to the health and safety of workmen and employees; and to provide access at all times to mining and related productive operations for examination and inspection by authorized representatives of the lessor.

(i) *Fair employment practice.* Not to discriminate against any employee or applicant for employment because of race, creed, color, or national origin, and to require an identical provision to be included in all subcontracts relating to operations under this lease.

(j) *Assignment of lease.* To file for approval with the Bureau of Land Management, within 90 days from the date of final execution, any instrument of transfer of this lease, or any interest therein, including assignments of record title, operating agreements, and subleases. Carried working interests, overriding royalty interests, or payments out of production, may be created or transferred without requirement for filing or approval. Instruments required to be filed shall take effect upon approval as of the first day of the lease month following the date of filing unless at the request of the parties an earlier date is specified in such approval.

(k) *Waiver of rentals and royalties.* Rentals or minimum royalties may be reduced and royalties on the entire leasehold or any deposit, tract, or portion thereof segregated for royalty purposes may be reduced if the Secretary finds that, for the purpose of increasing the ultimate recovery of sulphur and in the interest of conservation of natural resources, it is necessary, in his judgment, to do so in order to promote develop-

ment, or because the lease cannot be successfully operated under the terms fixed herein.

Sec. 3. *Reservations to lessor.* The lessor expressly reserves:

(a) *Geological and geophysical exploration: rights-of-way.* The right to authorize the conduct of geological and geophysical exploration in the leased area which does not interfere with or endanger actual operations under this lease, and the right to grant such easements or rights-of-way, upon, through, or in the leased area as may be necessary to the working of other lands containing the deposits described in the Act, and to the treatment and shipment of products thereof by or under authority of the United States, its lessees or permittees, and for other public purposes, subject to the provisions of section 5 (c) of the Act where they are applicable and to all lawful and reasonable regulations and conditions prescribed by the Secretary thereunder.

(b) *Leases of other minerals.* The right to grant leases of any mineral other than sulphur within the leased area or any part thereof, subject to the provisions of section 8 (c), 8 (d), and 8 (e) of the Act and all lawful and reasonable regulations prescribed by the Secretary thereunder: *Provided,* That no such mineral lease shall authorize or permit the lessee thereunder unreasonably to interfere with or endanger operations under this lease.

(c) *Purchase of production.* In time of war, or when the President shall so prescribe, the right of first refusal to purchase all or any of the sulphur produced from the leased area at the point of shipment to market at the prevailing market prices as determined by the Secretary.

(d) *Fissionable materials.* All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable materials, contained, in whatever concentration, in deposits in the subsoil or seabed of the leased area or any part thereof, as provided in section 12 (e) of the Act.

(e) *Suspension of operations during war or national emergency.* Upon recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or President of the United States after August 7, 1953, the authority of the Secretary of the Interior to suspend any or all operations under this lease, as provided in section 12 (c) of the Act: *Provided,* That just compensation shall be paid by the lessor to the lessee.

(f) *Restriction of exploration and operations.* The right, as provided in section 12 (d) of the act, to restrict from exploration and operations the leased area or any part thereof which may be designated by and through the Secretary of Defense, with the approval of the President, as, or as part of, an area of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on the surface of the leased area or the part thereof included within the designation except with the concurrence of the Secretary of Defense; and if operations or production under this lease within any such restricted area shall be suspended, any payments of rentals, minimum royalty, and royalty prescribed by this lease likewise shall be suspended during such period of suspension of operations and production, and the term of this lease shall be extended by adding thereto any such suspension period, and the lessor shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

Sec. 4. *Directional drilling.* This lease may be maintained in force by directional wells drilled under the leased area from surface locations on adjacent or adjoining lands not covered by this lease. In such circumstances, drilling shall be considered to have been commenced on the leased area when drilling is commenced on the adjacent or adjoining land for the purpose of directionally drilling under the leased area, and production of sulphur from the leased area through any directional well surfaced on adjacent or adjoining land or drilling or reworking of any such directional well shall be considered production or drilling or reworking operations (as the case may be) on the leased area for all purposes of this lease. Nothing contained in this paragraph is intended or shall be construed as granting to the lessee any leasehold interests, licenses, easements, or other rights in or with respect to such adjacent or adjoining land in addition to any such leasehold interests, licenses, easements, or other rights which the lessee may have lawfully acquired under the act or from the lessor or others.

Sec. 5. *Surrender and termination of lease.* The lessee may surrender this entire lease or any officially designated subdivision of the leased area by filing with the Director, Bureau of Land Management, a written relinquishment, in triplicate, which shall be effective as of the date of filing, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to abandon all wells or workings on the area to be relinquished.

Sec. 6. *Removal of property on termination of lease.* Upon the expiration of this lease, or the earlier termination thereof as herein provided, the lessee shall within a period of one year thereafter remove from the premises all structures, machinery, equipment, tools, and materials other than improvements needed for producing wells or for drilling or producing other leases and other property permitted by the lessor to be maintained on the area.

Sec. 7. *Proceedings in case of default.* If the lessee fails to comply with any of the provisions of the act or this lease or the applicable regulations in force on the date of issuance of this lease, and such default continues for a period of 30 days after service by registered mail of notice thereof upon the

lessee, this lease may be canceled by the Secretary in accordance with section 5 (b) (1) of the act, if the lease is not producing at the time of default. If the lease is producing at that time, it may be canceled only by judicial proceedings in the manner provided in section 5 (b) (2) of the act. These provisions shall not be construed to prevent the exercise by the lessor of any legal or equitable remedy which the lessor might otherwise have. A waiver of any particular default shall not prevent the cancellation of this lease or the exercise of any other remedy the lessor may have by reason of any other cause or for the same cause occurring at any other time.

SEC. 8. *Heirs and successors in interest.* Each obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the heirs, executors, administrators, successors, or assigns of the respective parties hereto.

SEC. 9. *Unlawful interest.* No Member of, or Delegate to, Congress, or Resident Commissioner, after his election or appointment, or either before or after he has qualified, and during his continuance in office, and no officer, agent, or employee of the Department of the Interior, except as provided in 43 CFR 7.4 (a) (1), shall be admitted to any share or part of this lease, or derive any benefit that may arise therefrom; and the provisions of section 3741 of the Revised Statutes, as amended (41 U. S. C., sec. 22), and sections 431, 432, and 433 of Title 18 of the United States Code, relating to contracts made or entered into, or accepted by or on behalf of the United States, form a part of this lease so far as the same may be applicable.

THE UNITED STATES OF AMERICA

By ------------------------------

(Title) (Date)

(Lessee)

IN WITNESS WHEREOF:

(Name and address)

(Name and address)

Witnesses to signature of lessee.

(If this lease is executed by a corporation, it must bear the corporate seal.)

CODE OF FEDERAL REGULATIONS

TITLE 30-MINERAL RESOURCES

CHAPTER II

GEOLOGICAL SURVEY

PART 250

OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

TITLE 30—MINERAL RESOURCES

Chapter II—Geological Survey, Department of the Interior

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

Pursuant to the authority vested in the Secretary of the Interior by the Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462), and in accordance with the notices published in the FEDERAL REGISTER on February 11, 1954, February 16, 1954 and March 11, 1954 (19 F. R. 790, 879, 1371), wherein comments and objections were invited to the tentative regulations then and there printed, the following regulations governing the issuance and recognition of mineral leases covering submerged lands in the outer Continental Shelf, together with oil and gas and sulphur lease forms, and regulations governing operations under such leases are hereby prescribed and shall become effective on May 10, 1954.

A new Part 250 is added, reading as follows:

NOTE: See also Title 43, Part 201, *infra*.

GENERAL PROVISIONS

Sec.
250.1 Purpose and authority.
250.2 Definitions.

JURISDICTION AND FUNCTIONS OF SUPERVISOR

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250.13 Temporary approvals.
250.14 Samples, tests, and surveys.
250.15 Drilling and abandonment of wells.
250.16 Well potentials and permissible flow.
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MINERAL LEASES AFFECTED BY SECTION 6 OF THE OUTER CONTINENTAL SHELF LANDS ACT

250.100 Effect of regulations on provisions of lease.

AUTHORITY: §§ 250.1 to 250.100 issued under sec. 5, 67 Stat. 464; 43 U. S. C. 1334. Interpret or apply sec. 6, 67 Stat. 465; 43 U. S. C. 1335.

GENERAL PROVISIONS

§ 250.1 *Purpose and authority.* The Outer Continental Shelf Lands Act enacted on August 7, 1953 (67 Stat. 462), referred to in this part as "the act," authorizes the Secretary of the Interior to prescribe rules and regulations applicable to operations conducted under a lease issued or maintained under the provisions of the act, and for the prevention of waste, the conservation of natural resources of the outer Continental Shelf, and the protection of correlative rights therein. The regulations in this part shall be administered by the Director of the Geological Survey.

NOTE: Compliance with the regulations of this part does not obviate the necessity of compliance with requirements and regulations of the Department of the Army and the Coast Guard with respect to prevention of

obstruction to navigation, lights, and warning devices, and other matters relating to safety of life and property, as authorized by section 4 of the act.

§ 250.2 *Definitions.* The following terms as used in the regulations in this part shall have the meanings here given:

(a) *Secretary.* The Secretary of the Interior.

(b) *Director.* The Director of the Geological Survey, Washington, D. C., having administrative direction of the enforcement of the regulations in this part.

(c) *Supervisor.* A representative of the Secretary, under administrative direction of the Director, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part, or any subordinate of such representative acting under his direction.

(d) *Outer Continental Shelf.* All submerged lands (1) which lie seaward and outside of the area of lands beneath navigable waters as defined in the Submerged Lands Act (67 Stat. 29) and (2) of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(e) *Lease.* The contract or agreement under which the leasehold rights are held by the lessee, or the land covered by the contract or agreement, whichever is required by the context.

(f) *Lessee.* The party authorized by a lease, or an approved assignment thereof, to develop and produce the leased deposits in accordance with the regulations in this part, including all parties holding such authority by or through him.

(g) *Operator.* The individual, partnership, firm, or corporation having control or management of operations on the leased land or a portion thereof. The operator may be a lessee, designated agent of the lessee, or holder of rights under an approved operating agreement.

(h) *Waste of oil and gas.* Waste means and includes (1) physical waste as that term is generally understood in the oil and gas industry; (2) the inefficient, excessive, or improper use of, or the unnecessary dissipation of reservoir energy; (3) the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes or tends to cause reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas; (4) the inefficient storage of oil; and (5) the production of oil or gas in excess of transportation or marketing facilities or in excess of reasonable market demand.

(i) *Directional drilling.* The deviation of a bore hole from the vertical or from its normal course in an intended predetermined direction or course with respect to the points of the compass. Directional drilling shall not include deviations made for the purpose of straightening a hole that has become crooked in a normal course of drilling or deviating a hole at random without regard to compass direction in an attempt to sidetrack a portion of the hole on account of mechanical difficulty in drilling.

JURISDICTION AND FUNCTIONS OF SUPERVISOR

§ 250.10 *Jurisdiction.* Drilling and production operations, handling and measurement of production, determination and collection of rental and royalty, and, in general, all operations subject to the regulations in this part are under the jurisdiction of the supervisor for any district as delineated by the Director.

§ 250.11 *General functions.* The supervisor is authorized to act upon the requests, applications, and notices made or given by an operator or lessee under the regulations in this part and to require compliance with lease terms, with the regulations in this part and all other applicable regulations, and with applicable law to the end that all operations shall conform to sound conservation practice and shall be conducted in such manner as to protect the natural resources of the outer Continental Shelf and result in their maximum economic recovery. After appropriate hearings, the supervisor may establish field rules to govern the development and method of production of a pool, field, or area. The supervisor may require satisfactory evidence that a lease is in good standing, that the lessee or operator is authorized to conduct operations, and that an acceptable bond has been filed before permitting operations on the leased land.

§ 250.12 *Regulation of operations.* (a) The supervisor shall inspect and regulate operations under the regulations in this part and shall issue orders and rules necessary, in his judgment, to prevent damage, or waste of any natural resource, or injury to life or property.

(b) *Emergency suspensions.* The supervisor is authorized to require a lessee by written notice to suspend any operation or method of operation which endangers life or threatens immediate, serious, or irreparable damage to the leased deposits or other valuable mineral deposits.

§ 250.13 *Temporary approvals.* Whenever the regulations in this part require a lessee to obtain approval of the supervisor, the lessee may make an oral or telegraphic request for such approval, and the supervisor may give such oral or telegraphic approval as may be warranted: *Provided,* That the transaction shall forthwith be confirmed in the manner otherwise required by the regulations in this part.

§ 250.14 *Samples, tests, and surveys.* (a) When deemed necessary or advisable, the supervisor is authorized to require that adequate tests or surveys be made in an acceptable manner without cost to the lessor to determine the reservoir energy; the presence, quantity, and quality of oil, gas, sulphur, other mineral deposits, or water; the amount and direction of deviation of any well from the vertical; or the formation, casing, tubing, or other pressures.

(b) The supervisor may, at the time of approval of any notice to drill or redrill any well, stipulate reasonable requirements for the taking of formation samples or cores to determine the identity and character of any formation.

§ 250.15 *Drilling and abandonment of wells.* The supervisor shall demand drilling in accordance with the terms of the lease and of the regulations in this part; and shall require plugging and abandonment, in accordance with such plan as may be approved or prescribed by him, of any well no longer used or useful, and upon failure to secure compliance with such requirement, perform the work at the expense of the lessee, expending available public funds, and submit such report as may be needed to furnish a basis for appropriate action to obtain reimbursement.

§ 250.16 *Well potentials and permissible flow.* The supervisor is authorized to specify the time and method for determining the potential capacity of any well and to fix, after appropriate notice, the permissible production of any such well that may be produced when such action is necessary to prevent waste or to conform with such proration rules, schedules, or procedures as may be established by the Secretary.

§ 250.17 *Well-spacing and well-casing.* (a) The supervisor shall approve well locations and well-spacing and -casing programs determined to be necessary for the proper development of the lease, giving due consideration to the location of drilling platforms, the geological and reservoir characteristics of the field, and the number of wells that can be economically drilled.

(b) The supervisor may approve irregular spacing of wells and development plans providing for a predetermined number of wells to be drilled and abandoned when required for the proper exploration and development of sulphur deposits.

§ 250.18 *Rights of use and easement.* (a) In addition to the rights and privileges granted to a lessee under any lease issued or maintained under the act, the supervisor may grant such lessee, subject to such reasonable conditions as said supervisor may prescribe, the right of use or an easement to construct and maintain platforms, fixed structures, and artificial islands, and to use the same for carrying on operations, including drilling, directional drilling, producing, treating, handling, and storing production, and housing personnel engaged in operations, not only in connection with the lease on which the platform, structure, or island, is situated, but for the conduct of operations on any other lease, State or Federal.

(b) The supervisor may grant to a holder of a Federal or State lease the right of use or an easement to construct and maintain platforms, fixed structures, and artificial islands on areas of the outer Continental Shelf, near or adjacent to the leased area, and to use same for drilling directional well or wells to be bottomed under the leased area, and for producing and reworking such well or wells, and for handling, treating, and storing the production therefrom. Such rights of use or easement if on an area subject to any mineral lease issued or maintained under the act shall be granted only after the lessee under such lease has been notified and afforded an opportunity to voice objections thereto, and any such right shall be exercised only in such manner so as not to interfere unreasonably with operations of the lessee under such lease.

(c) Once a right of use or easement has been exercised by the erection of fixed platforms, structures, or islands, the right shall continue so long as such platforms, structures, or islands are maintained, even beyond the termination of any lease on which they may be situated, and the rights of all subsequent lessees shall be subject to such rights of use and easement by prior lessees. The foregoing right of use and easement shall include the right to lay gathering lines, flow lines, and other pipelines used in connection with any lease operations, for moving production to a central point for purposes of gathering, treating, or storing. The right of use and easement shall not apply to pipelines used for transporting oil, gas, or other production after the same has been treated and measured, such rights-of-way being provided for in regulations under section 5 (c) of the Outer Continental Shelf Lands Act.

§ 250.19 *Rentals, royalties, and other payments.* The supervisor shall determine pursuant to the lease and regulations the rental and the amount or value of production accruing to the lessor as royalty, the loss through waste or failure to drill and produce protection wells on the lease, and the compensation due to the lessor as reimbursement for such loss.

§ 250.20 *Suspension of operations and production.* On receipt of an application for suspension of operations or production or for relief from any drilling or producing requirement under a lease, the supervisor shall grant such approval as he may deem warranted in the premises or reject such application, subject to the right of appeal as provided in § 250.81.

REQUIREMENTS FOR LESSEES

§ 250.30 *Lease terms, regulations, waste, damage, and safety.* The lessee shall comply with the terms of the lease, with the written orders of the supervisor, and, subject to the provisions of section 5 (a) of the act, with the regulations in this part and any amendments thereof. The lessee shall take all reasonable precautions to prevent damage or waste of any natural resource or injury to life or property or the aquatic life of the seas.

§ 250.31 *Designation of operator.* In all cases where operations are not conducted by the record owner but are to be conducted under authority of an unapproved operating agreement, assignment, or other arrangement, a "designation of operator" shall be submitted to the supervisor, in a manner and form approved by him, prior to commencement of operations. Such designation will be accepted as authority of operator or his local representative to fulfill the obligations of the lessee and to sign any papers or reports required under the regulations in this part. All changes of address and any termination of the authority of the operator shall be immediately reported, in writing, to the supervisor or his representative. In case of such termination or of controversy between the lessee and the designated operator, the operator, if in possession of the lease, will be required to protect the interests of the lessor.

§ 250.32 *Local agent.* When required by the supervisor, the lessee shall designate a representative empowered to receive notices and comply with orders of the supervisor issued pursuant to the regulations in this part.

§ 250.33 *Drilling and producing obligations.* (a) The lessee shall diligently drill and produce such wells as are necessary to protect the lessor from loss by reason of production on other properties, or in lieu thereof, with the consent of the supervisor, shall pay a sum determined by the supervisor as adequate to compensate the lessor for failure to drill and produce any such well. In the event that the lease is not being maintained in force by other production of oil or gas in paying quantities or by other approved drilling or reworking operations, such payments shall be considered as the equivalent of production in paying quantities for all purposes of the lease.

(b) The lessee shall promptly drill and produce such other wells as the supervisor may reasonably require in order that the lease may be properly and timely developed and produced in accordance with good operating practices.

§ 250.34 *Drilling and development programs.* (a) Prior to the beginning of any operations on the lease, including the construction of drilling or production platforms or other structures, the lessee shall submit to the supervisor for approval an acceptable plan for the performance of such work. Such plan shall include (1) a plan of the drilling or production platform or structures, showing the location and major features thereof,

(2) the proposed well-casing program for the initial well, (3) the location of the initial well (including surface and projected bottom-hole location if the well is to be directionally drilled), (4) structural interpretations based on available geological and geophysical data, and (5) such other pertinent data as the supervisor may prescribe.

(b) After a discovery has been made on the lease, the lessee shall submit to the supervisor a plan of development for the lease or field including (1) the number and location of the proposed wells (including the projected bottom-hole location for directionally drilled wells) and the approximate time for drilling each, (2) amendments or additions to the structural interpretations, (3) plans for additional drilling or producing platforms or other structures, (4) the well-casing program for the field or area, and (5) such other data as the supervisor may prescribe. Such program must be approved by the supervisor and may be modified from time to time as conditions may warrant.

(c) In order to protect the interests of the lessee, geological and geophysical interpretations required by this section shall, upon request of the lessee, be classified as not available for public inspection until such time as the supervisor determines the release of such information is required and necessary for the proper development of the field or area.

§ 250.35 *Subsequent well operations.* After completion of all operations contemplated under any previously approved notice or plan, the lessee shall not begin to redrill, repair, deepen, plug back, shoot, or plug and abandon any well, make water shutoff, alter the casing or liner, stimulate production by acid, gas, air, water injection, or any other method, change the method of recovering production, or use any formation or well for gas storage or water disposal without first notifying the supervisor of his plan and intention and receiving written approval prior to commencing the contemplated work. This requirement shall not deter the lessee from taking any action in an emergency to prevent damage.

§ 250.36 *Well designations.* The lessee shall mark promptly each drilling platform or structure in a conspicuous place, showing his name or the name of the operator, the serial number of the lease, the identification of the wells, and shall take all necessary means and precautions to preserve these markings.

§ 250.37 *Well records.* (a) The lessee shall keep on the lease, or at his headquarters for the field, or otherwise conveniently available to the supervisor, accurate and complete records of the production, drilling, redrilling, deepening, repairing, cementing, alterations to casing, plugging, abandoning, and all other well operations, including electrical or radioactive well logs and directional well surveys. The records shall show all the formations penetrated, the content and character of oil, gas, other mineral deposits, or water in each formation; the kind, weight, size, and landed depth of casing used in drilling each well on the leased lands; and any other information obtained in the course of well operations.

(b) The lessee shall, within 30 days after the completion of any well and within 30 days after the completion of any further operations on it, transmit to the supervisor copies of the records of such work on forms furnished by or acceptable to him.

(c) The lessee shall, within 30 days after the completion of electrical or radioactive well-logging operations or directional well surveys, transmit to the supervisor copies of such logs or charts. Such logs or charts may be either field copies of individual runs or composite logs of more than one run.

(d) The lessee shall also submit such other reports and records of operations as may be required and in the manner and form prescribed by the supervisor.

(e) Upon request and in the manner and form prescribed by the supervisor, the lessee shall furnish a copy of the daily drilling report, a plat showing the location, designation, and status of all wells on the leased lands, together with such other pertinent information as the supervisor may require.

(f) When deemed advisable by the supervisor, the lessee shall require each service company to furnish promptly to the supervisor legible, exact copies of reports on cementing, perforating, acidizing, or other similar services.

§ 250.38 *Samples, tests, and surveys.* (a) The lessee, when required by the supervisor, shall make adequate tests or surveys in an acceptable manner, without cost to the lessor, to determine the reservoir energy; the presence, quantity, and quality of oil, gas, sulphur, other

mineral deposits, or water; the amount and direction of deviation of any well from the vertical; or the formation, casing, tubing, or other pressures.

(b) The lessee shall take such formation samples or cores to determine the identity and character of any formation in accordance with reasonable requirements of the supervisor prescribed at the time of approval of the notice to drill or redrill any well.

§ 250.39 *Directional survey.* (a) An angular deviation and directional survey shall be made of the finished hole of each well directionally drilled.

(b) The supervisor, at the request of an offset lessee made prior to completion of a well, may require a lessee of an adjoining lease to make or furnish a directional survey of any hole, at the risk and expense of the offset lessee making such request. A copy of such directional survey shall be furnished to the supervisor and the offset lessee. If it is determined that such well is closer to the line of the offset lease than one-half (½) the required distance from such line fixed by an approved spacing program or by special field rules, the risk and expense of making such directional survey shall be borne by the offending lessee; and, unless and until the hole is promptly straightened to correct the offense, the supervisor may reduce the allowable production from the well to prevent its draining unduly the offset leased area. Neither the imposition of any penalty or of the costs of such survey upon the offending lessee nor the reduction of the allowable production from the well is intended to prejudice any other remedy which the affected parties may have.

§ 250.40 *Control of wells.* (a) The lessee shall take all reasonable precautions for keeping all wells under control at all times and shall provide at the time any well is started the proper high-pressure fittings and equipment as the supervisor may prescribe or approve. A conductor string of casing must be cemented throughout its length, and all strings of casing must be securely cemented and anchored unless other procedure is authorized or prescribed by the supervisor.

(b) The lessee shall take all reasonable precautions to prevent any well from blowing open and shall take immediate steps and exercise due diligence to bring under control any such well. Storm chokes shall be installed in all wells capable of flowing oil and gas.

§ 250.41 *Emulsion and dehydration.* (a) The lessee shall complete and maintain all oil wells in such mechanical condition and operate them in such manner as to prevent, so far as possible, the formation of emulsion and basic sediment.

(b) The lessee shall put in marketable condition, if commercially feasible, all products produced from the leased land and pay royalty thereon without recourse to the lessor for deductions on account of costs of treatment.

§ 250.42 *Pollution.* The lessee shall not pollute the waters of the high seas or damage the aquatic life of the sea or allow extraneous matter to enter and damage any mineral- or water-bearing formation. The lessee shall dispose of all useless liquid products of wells in a manner acceptable to the supervisor.

§ 250.43 *Well abandonment.* The lessee shall promptly plug and abandon any well on the leased land that is not used or useful, but no productive well shall be abandoned until its lack of capacity for further profitable production of oil, gas, or sulphur has been demonstrated to the satisfaction of the supervisor. Before abandoning a producible well, the lessee shall submit to the supervisor a statement of reasons for abandonment and his detailed plans for carrying on the necessary work. A producible well may be abandoned only after receipt of written approval by the supervisor. No well shall be plugged and abandoned until the manner and method of plugging shall be approved or prescribed by the supervisor. Equipment shall be removed, and premises at the well-site shall be properly conditioned immediately after plugging operations are completed on any well when directed by the supervisor. Drilling equipment shall not be removed from any suspended drilling well without taking adequate measures to protect the natural resources.

§ 250.44 *Accidents and fires.* The lessee shall take all reasonable precautions to prevent accidents and fires, shall immediately notify the supervisor of any serious accident or fire on the leasehold, and shall submit a full report thereon within 10 days.

§ 250.45 *Workmanlike operations.* The lessee shall carry on all operations and maintain the property at all times in a safe and workmanlike manner, having due regard for the preservation and the conservation of the property and for the health and safety of employees. The lessee shall take reasonable steps to prevent accumulations of oil or other materials deemed to be fire hazards and shall promptly remove such hazardous accumulations as do occur.

§ 250.46 *Sales contracts.* (a) The lessee shall file with the supervisor not less than 30 days after the effective date thereof copies of all contracts for the disposal of lease products; provided that the supervisor may relieve the lessee of this requirement, in which event the contracts shall be made available for inspection by the supervisor upon his request. Nothing in any such contract or in any approval thereof by the supervisor as authorized in paragraph (b) of this section shall be construed or accepted as modifying any of the provisions of the lease, including, but not limited to, provisions relating to gas waste, taking royalty in kind, and the method of computing royalties due as based on a minimum valuation and in accordance with the regulations applicable to the lands covered by the contract.

(b) If request for approval of a contract is made by the seller, the contract may be approved by the supervisor subject to the conditions provided in paragraph (a) of this section and to such further conditions as may be prescribed by the supervisor.

(c) Lessee may submit to the Secretary, through the supervisor, for approval any long-term contract which the lessee has made or proposes to make for the sale of gas produced from a lease or leases. Should the Secretary approve such contract, for the purpose of computing royalties on gas sold and delivered from the lease or leases under such contract, the value of the gas on the leased premises shall be the price paid therefor under such contract. Nothing in any such contract, or the approval thereof, shall be construed to limit the right of the United States to take its royalty in kind.

§ 250.47 *Division orders.* The lessee shall file with the supervisor not less than 30 days after the effective date thereof copies of division orders or other instruments granting to transportation agencies or purchasers authority to receive products from leased lands. The supervisor may, upon request, approve such orders or other instruments subject to such conditions as he shall prescribe.

* § 250.48 *Royalty and rental payments.* The lessee shall pay all rentals when due and shall pay in value or deliver in production all royalties in the amounts determined by the supervisor as due under the terms of the lease. Payments of rentals and royalties in value shall be by check or draft on a solvent bank, or by money order, drawn to the order of the United States Geological Survey.

MEASUREMENT OF PRODUCTION AND COMPUTATION OF ROYALTIES

§ 250.60 *Measurement of oil.* The lessee shall gage and measure all production in accordance with methods approved by the supervisor. The lessee shall provide tanks suitable for measuring accurately the crude oil produced from the lease (positive copies of 100 percent capacity tank tables to be furnished to the supervisor) or may arrange with the supervisor for other acceptable methods of measuring, storing, and recording production. The quantity and quality of all production shall be determined in accordance with the standard practices, procedures, and specifications generally used by the industry.

§ 250.61 *Measurement of gas.* The lessee shall measure all gas production in accordance with methods approved by the supervisor, and the measured volumes shall be adjusted to the standard pressure base of 10 ounces above the atmospheric pressure of 14.4 pounds per square inch, a standard temperature of 60° Fahrenheit, and for deviation from Boyle's law. If gas is being disposed of at a different pressure base, the supervisor may require that gas volumes be adjusted to conform to such base.

§ 250.62 *Determination of content of gas.* The content of gas delivered to an extraction plant treating gas from the lease shall be determined periodically by field tests, as required by the supervisor, to be made at the place and by the methods approved by him and under his supervision.

§ 250.63 *Quantity basis for substances extracted from gas.* (a) The primary quantity basis for computing monthly royalties on casing-head or natural gas-

* 21 F. R. 4668

oline, butane, propane, or other substances (hereinafter called substances in this section) extracted from gas is the monthly net output of the plant at which the substances are manufactured, "net output" being defined as the quantity of each substance that the plant produces for sale.

(b) If the net output of a plant is derived from the gas obtained from only one lease, the quantity of substances on which computations of royalty for the lease is based is the net output of the plant.

(c) If the net plant output of a substance is derived from gas obtained from several leases producing gas of uniform content of such substance, the proportion of net output of the substance allocable to each lease as a basis for computing royalty will be determined by dividing the amount of gas delivered to the plant from each lease by the total amount of gas delivered from all leases.

(d) If the net plant output of a substance is derived from gas obtained from several leases producing gas of diverse content of such substance, the proportion of net output of the substance allocable to each lease as a basis for computing royalty will be determined by multiplying the amount of gas delivered to the plant from the lease by the substance content of the gas and dividing the arithmetical product thus obtained by the sum of the similar arithmetical products separately obtained for all leases from which gas is delivered to the plant.

§ 250.64 *Value basis for computing royalties.* The value of production, for the purpose of computing royalty, shall be the estimated reasonable value of the product as determined by the supervisor, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field or area, to the price received by the lessee, to posted prices, and to other relevant matters. Under no circumstances shall the value of production of any of said substances for the purposes of computing royalty be deemed to be less than the gross proceeds accruing to the lessee from the sale thereof or less than the value computed on such reasonable unit value as shall have been determined by the Secretary. In the absence of good reason to the contrary, value computed on the basis of the highest price paid or offered at the time of production in a fair and open market for the major portion of like-quality products produced and sold from the field or area where the leased lands are situated will be considered to be a reasonable value.

§ 250.65 *Royalty on oil.* (a) The royalty on crude oil shall be the percentage of the value or amount of the crude oil produced from the leased lands established by law, regulation, or the term of the lease. No deduction may be made for actual or theoretical transportation losses.

(b) Royalty shall be based on production removed from the lease except that, when conditions so warrant, the supervisor may require such royalty to be based on actual monthly production. Evidence of all shipments shall be filed with the supervisor within five days (or such longer period as the supervisor may approve) after the oil has been run by pipeline or by other means of transportation. Such evidence shall be signed by representatives of the lessee and of the purchaser or the transporter who have witnessed the measurements reported, and the determinations of gravity, temperature, and the percentage of impurities contained in the oil shall be shown.

§ 250.66 *Royalty on unprocessed gas.* If gas, either gas-well gas or casing-head gas, is sold without processing for the recovery of constituent products, the royalty thereon shall be the percentage established by the terms of the lease of the value or amount of the gas produced.

§ 250.67 *Royalty on processed gas.* (a) If gas-well gas is processed for the recovery of constituent products, a royalty as provided in the lease will accrue on the value of all residue gas, and on all natural gasoline, butane, propane, or other substances extracted therefrom.

(b) If casing-head gas is processed for the recovery of constituent products, a royalty as provided in the lease will accrue as follows:

(1) On the full amount of the residue gas remaining after processing.

(2) Unless otherwise provided in the lease, on the value of 50 percent (or the net proceeds received by the lessee if greater than 50 percent) of all natural gasoline, butane, propane, or other substances extracted from the casing-head gas.

(c) In determining the value of natural gasoline, the volume of such gasoline may be corrected when deemed necessary by the supervisor to such standard and by such method as may be approved by

the supervisor, in order that volumetric differences between natural gasolines of various specifications may be equitably adjusted.

(d) No allowance shall be made for boosting residue gas or other expenses incidental to marketing.

(e) The lessee, with the approval of the supervisor, may establish a gross value per unit of one thousand cubic feet of gas on the lease or at the wellhead for the purposes of computing royalty for gas-well gas or casing-head gas processed for the recovery of constituent products.

§ 250.68 *Commingling production.* Subject to such conditions as he may prescribe for measurement and allocation of production, the supervisor may authorize the lessee to move production from the lease to a central point for purposes of treating, measuring, and storing, and in moving such production, the lessee may commingle the production from different wells, leases, pools, and fields, and with production of other operators. The central point may be on shore or at any other convenient place selected by lessee.

§ 250.69 *Measurement of sulphur.* The measurement of sulphur for the purpose of computing royalty shall be on such basis and shall conform to such standards as the supervisor may approve.

PROCEDURE IN CASE OF DEFAULT BY LESSEE

§ 250.80 *Default.* Whenever the owner of a lease fails to comply with the provisions of the regulations in this part, the supervisor is authorized to give 30-day notice of such default by registered letter to the lessee at his record post office address as provided in section 5 (b) (1) of the act and to recommend to the Secretary, through the Director, lease cancellation pursuant to section 5 (b) (1) and (2) of the act, appropriate action under the penalty provisions of section 5 (a) (2) of the act, or the exercise of such other legal or equitable remedy as the lessor may have.

§ 250.81 *Appeals.* (a) An appeal from any order issued under authority of the regulations in this part may be filed as hereinafter set forth in this section. Compliance with any such order shall not be suspended by reason of an appeal having been taken unless such suspension is authorized in writing by the Director or the Secretary (dependent upon the officer with whom the appeal is pending) and then only upon a determination that such suspension will not be detrimental to the lessor or upon the submission and acceptance of a bond deemed adequate to indemnify the lessor from loss or damage.

(b) An appeal to the Director may be taken from any order of the supervisor by filing such appeal with the latter officer within 20 days after service of the order. The appeal shall incorporate or be accompanied by such written showing and argument on the facts and law as the appellant may deem adequate to justify reversal or modification of the order. All statements of fact must be made under oath.

(c) The supervisor shall transmit the appeal and accompanying papers to the Director with a full report and recommendations in the premises, and that official shall review the record and render such a decision in the case as he deems proper.

(d) An appeal from any decision of the Director may be taken to the Secretary within 30 days after service of the Director's decision. The appeal shall be accompanied by such written showing and argument on the facts and law as appellant may deem adequate to justify reversal or modification of the decision. Any statements of fact not submitted to the Director must be made under oath.

(e) Oral argument in any case pending before the supervisor, the Director, or the Secretary will be allowed on motion in the discretion of such officer and at a time to be fixed by him.

§ 250.82 *Judicial review.* Nothing contained in this part shall be construed to prevent any interested party from seeking judicial review as authorized by law.

REPORTS TO BE MADE BY ALL LESSEES (INCLUDING OPERATORS)

§ 250.90 *General requirements.* Information required to be submitted in accordance with the regulations in this part shall be furnished in the manner and form prescribed in the regulations in this part or as directed by the supervisor. Copies of forms can be obtained from the supervisor and must be filled out completely and filed punctually with that official.

§ 250.91 *Sundry notices and reports on wells.* Form 9–150 covers all notices of intention and all subsequent reports pertaining to individual wells except

those for which special blanks are provided. The forms may be used for any of the purposes listed thereon, or a special heading may be inserted in the blank to adapt it for use for similar purposes. Any written notice of intention to do work which has not been approved and for which approval is required or to change plans previously approved must be filed in triplicate, unless otherwise directed, and must reach the supervisor and receive his approval before the work is begun. The lessee is responsible for receipt of the notice by the supervisor in ample time for proper consideration and action. The following paragraphs illustrate some of the uses to which Form 9–150 may be put and indicate the requirements with respect to each use.

(a) *Notice of intention to drill.* The notice of intention to drill a well must be filed in triplicate on Form 9–150 with the supervisor and approval received before the work is begun. This notice, in addition to the requirements contained in § 250.34, must give the surface location and projected bottom-hole location in feet from the lease boundaries; elevation of the derrick floor; proposed depth to which the well will be drilled; the bottom-hole location; estimated depths to the top of important markers; estimated depths at which water, oil, gas, and mineral deposits are expected; the proposed casing program, including the size and weight of casing, the depth at which each string is to be set, and the amount of cement and mud to be used. Information also shall be furnished relative to the proposed plan for drilling other proposed wells from the same platform, coring at specified depths, and plans for electrical logging, together with any other information which may be required by the supervisor.

Each copy of the application shall be accompanied by a plat drawn on a scale of not less than 2,000 feet to the inch, showing surface and subsurface location of the well to be drilled and all wells theretofore drilled.

(b) *Notice of intention to change the condition of a well.* Before repairing (other than work incidental to ordinary well operation), acidizing or stimulating production by other methods, deepening, perforating, plugging back, sidetracking, squeezing with mud or cement, or commencing any operations that will alter the condition of a completed well or productive horizon other than previously reported, a detailed writen statement of the plan of work must be filed in triplicate with the supervisor on Form 9–150 and approval obtained before the work is started. This requirement shall not deter any operator from taking immediate action in an emergency to prevent damage.

(c) *Subsequent report of changing the condition of a well.* Within 30 days after the completion of any work described in paragraph (b) of this section, a detailed report of the work done and the results obtained shall be filed in duplicate with the supervisor. Such report shall show the amount of production of oil, gas, and water before and after the work was completed and shall also include a complete statement of the work accomplished and the methods employed, including all dates. Reports of work done by service companies, unless previously furnished the supervisor, shall be submitted with subsequent reports.

(d) *Notice of intention to abandon well.* Before beginning abandonment work on any well, whether a drilling well, a depleted producing well, or a dry hole, notice of intention to abandon shall be filed in triplicate with the supervisor, and approval obtained before the work is started. The notice, as to a producible well, must show the reason for abandonment and the amount and date of last production, and as to any well must give a detailed statement of the proposed work, including such information as kind, location, and length of plugs (by depths), and plans for mudding, cementing, shooting, testing, removing casing, and other pertinent information.

(e) *Subsequent report of abandonment.* After a well is abandoned or plugged, a subsequent record of work done must be filed with the supervisor. This report shall be filed separately within 30 days after the work is done. The report shall give a detailed account of the manner in which the abandonment or plugging work was carried out, including the nature and quantities of materials used in plugging and the location and extent (by depths) of the plugs of different materials; records of any tests or measurements made and of the amount, size, and location (by depths) of casing left in the well; and a detailed statement of the volume of mud fluid used and the pressure attained in mudding. If an attempt was made to part

any casing, a complete report of the methods used and results obtained must be included.

§ 250.92 *Log and history of well.* The lessee shall furnish in duplicate, on Form 9–151, to the supervisor, not later than 30 days after the completion of each well, a complete and accurate log and history, in chronologic order, of all operations conducted on the well. If a log is compiled for geologic information from cores or formation samples, duplicate copies of such log shall be filed in addition to the regular log. Duplicate copies of all electric logs, temperature surveys, or direction surveys shall be furnished. The lessee shall require the drillers to record pertinent information obtained in drilling the well.

§ 250.93 *Monthly report of operations.* A separate report of operations for each lease must be made on Form 9–152 for each calendar month, beginning with the month in which drilling operations are initiated, and must be filed in duplicate with the supervisor on or before the 20th day of the succeeding month, unless an extension of time for the filing of such report is granted by the supervisor. The report on this form shall disclose accurately all operations conducted on each well during each month, the status of operations on the last day of the month, and a general summary of the status of operations on the leased lands, and the report must be submitted each month until the lease is terminated or until omission of the report is authorized by the supervisor. It is particularly necessary that the report shall show for each calendar month:

(a) Each well listed separately by number and its location shown if possible.

(b) The number of days each well produced, whether oil or gas, and the number of days each input well was in operation.

(c) The quantity of oil, gas, and water produced; the total amount of gasoline and other lease products recovered; and other required information. When oil and gas, or oil, gas, and gasoline, or other hydrocarbons are concurrently produced from the same lease, separate reports on this form should be submitted for oil and gas and gasoline, unless otherwise authorized or directed by the supervisor.

(d) The depth of each active or suspended well; the name, character, and depth of each formation drilled during the month; the date each such depth was reached; the date and reason for every shutdown; the names and depths of important formation changes and contents of formations; the amount and size of any casing run since last report; the dates and results of any tests such as production, water shutoff, or gasoline content; and any other noteworthy information on operations not specifically provided for in the form.

(e) If no runs or sales were made during the calendar month, the report must so state.

§ 250.94 *Statement of oil and gas runs and royalties.* When directed by the supervisor, a monthly report shall be made by the lessee in duplicate, on Form 9–153, showing each run of oil; all sales of gas, gasoline, and other lease products; and the royalty accruing therefrom to the lessor.

§ 250.95 *Special forms or reports.* When special forms or reports other than those referred to in the regulations in this part may be necessary, instructions for the filing of such forms or reports will be given by the supervisor.

§ 250.96 *Waiver or filing reports.* The supervisor may waive the requirement for the filing of reports, records, or notices required by §§ 250.90 through 250.95.

MINERAL LEASES AFFECTED BY SECTION 6 OF OUTER CONTINENTAL SHELF LANDS ACT

§ 250.100 *Effect of regulations on provisions of lease.* (a) As contemplated by section 6 (b) of the act, the regulations in this part will supersede the provisions of any lease which is determined to meet the requirements of section 6 (a) of the act, to the extent that they cover the same subject matter, with the following exceptions: The provisions of a lease with respect to the area covered by the lease, the minerals covered by the lease, the rentals payable under the lease, the royalties payable under the lease (subject to the provisions of sections 6 (a) (8) and 6 (a) (9) of the act), and the term of the lease (subject to the provisions of section 6 (a) (10) of the act and, as to sulphur, subject to the provisions of section 6 (b) (2) of the act) shall continue in effect and, in the event of any conflict or inconsistency, shall take precedence over the regulations in this part.

(b) A lease that meets the requirements of section 6 (a) of the act shall

also be subject to the mineral leasing regulations applicable to the outer Continental Shelf,[1] as well as the regulations relating to geophysical and geological exploratory operations and to pipeline rights-of-way in the outer Continental Shelf, to the extent that those regulations are not contrary to or inconsistent with the provisions of the lease relating to the area covered, the minerals covered, the rentals payable, the royalties payable, and the terms of the lease.

Note: The record keeping or reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Effective date: May 10, 1954.

Douglas McKay,
Secretary of the Interior.

May 4, 1954.

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[1] See 43 CFR Part 201.

GENERAL INFORMATION

DESIGNATION OF TRACTS ON THE OUTER CONTINENTAL SHELF

The plan for subdivision of the outer Continental Shelf contemplates that the basic system of surveys and tract designations used by the respective coastal States for identifying lands offshore be adopted and followed, so far as practicable. The system used by Texas, except immediately adjacent to the shore, has resulted in the establishment of blocks three miles square containing 5,760 acres. In Louisiana, the system employed by the State set up blocks generally containing 5,000 acres each, some being relatively square while others are elongated.

In the outer Continental Shelf for those blocks which are substantially square in form, a midpoint subdivisional system will be employed to divide each block into 64 parts as follows: Each block will be divided into quarters (1,250 acres each for 5,000-acre blocks and 1,440 acres each for blocks of 5,760 acres). Each quarter block, in turn, will be further divided into quarters, and each quarter-quarter thus established again will be quartered. The final result will be a smallest subdivision of 78.125 acres as an aliquot part of a 5,000-acre block and a 90.00-acre subdivision as an aliquot part of a 5,760-acre block. This will result in simplicity and certainty of land description. Such subdivisions will be the smallest allowed for assignments or relinquishments of leases.

Many blocks under the Louisiana system will not conform to such regularity of outline or area as to permit application of the foregoing plan of subdivision. The official leasing maps for the outer Continental Shelf will exhibit diagrams showing the method of subdivision of blocks on the outer Continental Shelf, both those which are of such regularity as to permit application of the above-outlined plan and those special cases where other treatment must be employed.

APPENDIX

OUTER CONTINENTAL SHELF LANDS ACT

PUBLIC LAW 212

83 CONGRESS

1st. SESSION

(67 STAT. 462)

Public Law 212 - 83d Congress
Chapter 345 - 1st Session
H. R. 5134

AN ACT

All 67 Stat. 462.

To provide for the jurisdiction of the United States over the submerged lands of the outer Continental Shelf, and to authorize the Secretary of the Interior to lease such lands for certain purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Outer Continental Shelf Lands Act".

Outer Continental Shelf Lands Act.

SEC. 2. DEFINITIONS.—When used in this Act—

(a) The term "outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2 of the Submerged Lands Act (Public Law 31, Eighty-third Congress, first session), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control;

Ante, p. 29.

(b) The term "Secretary" means the Secretary of the Interior;

(c) The term "mineral lease" means any form of authorization for the exploration for, or development or removal of deposits of, oil, gas, or other minerals; and

(d) The term "person" includes, in addition to a natural person, an association, a State, a political subdivision of a State, or a private, public, or municipal corporation.

SEC. 3. JURISDICTION OVER OUTER CONTINENTAL SHELF.—(a) It is hereby declared to be the policy of the United States that the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act.

(b) This Act shall be construed in such manner that the character as high seas of the waters above the outer Continental Shelf and the right to navigation and fishing therein shall not be affected.

SEC. 4. LAWS APPLICABLE TO OUTER CONTINENTAL SHELF.—(a) (1) The Constitution and laws and civil and political jurisdiction of the United States are hereby extended to the subsoil and seabed of the outer Continental Shelf and to all artificial islands and fixed structures which may be erected thereon for the purpose of exploring for, developing, removing, and transporting resources therefrom, to the same extent as if the outer Continental Shelf were an area of exclusive Federal jurisdiction located within a State: *Provided, however*, That mineral leases on the outer Continental Shelf shall be maintained or issued only under the provisions of this Act.

State laws.

(2) To the extent that they are applicable and not inconsistent with this Act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent State as of the effective date of this Act are hereby declared to be the law of the United States for that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the State if its boundaries were extended seaward to the outer margin of the outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the outer Continental Shelf.

Publication of projected State lines.

(3) The provisions of this section for adoption of State law as the law of the United States shall never be interpreted as a basis for claiming any interest in or jurisdiction on behalf of any State for any

purpose over the seabed and subsoil of the outer Continental Shelf, or the property and natural resources thereof or the revenues therefrom.

Jurisdiction of U. S. district courts.

(b) The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with any operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing or transporting by pipeline the natural resources, or involving rights to the natural resources of the subsoil and seabed of the outer Continental Shelf, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the adjacent State nearest the place where the cause of action arose.

Worker's compensation.

(c) With respect to disability or death of an employee resulting from any injury occurring as the result of operations described in subsection (b), compensation shall be payable under the provisions of the Longshoremen's and Harbor Workers' Compensation Act. For the purposes of the extension of the provisions of the Longshoremen's and Harbor Workers' Compensation Act under this section—

44 Stat. 1424.
33 USC 901.

(1) the term "employee" does not include a master or member of a crew of any vessel, or an officer or employee of the United States or any agency thereof or of any State or foreign government, or of any political subdivision thereof;

(2) the term "employer" means an employer any of whose employees are employed in such operations; and

(3) the term "United States" when used in a geographical sense includes the outer Continental Shelf and artificial islands and fixed structures thereon.

61 Stat. 136.
29 USC 167.

(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island or fixed structure referred to in subsection (a) shall be deemed to have occurred within the judicial district of the adjacent State nearest the place of location of such island or structure.

Coast Guard regulations, etc.

(e) (1) The head of the Department in which the Coast Guard is operating shall have authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the islands and structures referred to in subsection (a) or on the waters adjacent thereto, as he may deem necessary.

(2) The head of the Department in which the Coast Guard is operating may mark for the protection of navigation any such island or structure whenever the owner has failed suitably to mark the same in accordance with regulations issued hereunder, and the owner shall pay the cost thereof. Any person, firm, company, or corporation who shall fail or refuse to obey any of the lawful rules and regulations issued hereunder shall be guilty of a misdemeanor and shall be fined not more than $100 for each offense. Each day during which such violation shall continue shall be considered a new offense.

Penalty.

Artificial islands, etc.

(f) The authority of the Secretary of the Army to prevent obstruction to navigation in the navigable waters of the United States is hereby extended to artificial islands and fixed structures located on the outer Continental Shelf.

(g) The specific application by this section of certain provisions of law to the subsoil and seabed of the outer Continental Shelf and the artificial islands and fixed structures referred to in subsection (a) or to acts or offenses occurring or committed thereon shall not give rise to any inference that the application to such islands and structures, acts, or offenses of any other provision of law is not intended.

Sec. 5. Administration of Leasing of the Outer Continental Shelf.—(a) (1) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall apply to all operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of conservation laws, rules, and regulations the Secretary is authorized to cooperate with the conservation agencies of the adjacent States. Without limiting the generality of the foregoing provisions of this section, the rules and regulations prescribed by the Secretary thereunder may provide for the assignment or relinquishment of leases, for the sale of royalty oil and gas accruing or reserved to the United States at not less than market value, and, in the interest of conservation, for unitization, pooling, drilling agreements, suspension of operations or production, reduction of rentals or royalties, compensatory royalty agreements, subsurface storage of oil or gas in any of said submerged lands, and drilling or other easements necessary for operations or production.

Prevention of waste.

Cooperation with State conservation agencies.

(2) Any person who knowingly and willfully violates any rule or regulation prescribed by the Secretary for the prevention of waste, the conservation of the natural resources, or the protection of correlative rights shall be deemed guilty of a misdemeanor and punishable by a fine of not more than $2,000 or by imprisonment for not more than six months, or by both such fine and imprisonment, and each day of violation shall be deemed to be a separate offense. The issuance and continuance in effect of any lease, or of any extension, renewal, or replacement of any lease under the provisions of this Act shall be conditioned upon compliance with the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or with the regulations issued under the provisions of section 6 (b), clause (2), hereof if the lease is maintained under the provisions of section 6 hereof.

Penalty.

(b) (1) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6 (b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in section 8 (j), if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

Cancellation of lease.

(2) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act and in force and effect on the date of the issuance of the lease if the lease is issued under the provisions of section 8 hereof, or of the regulations issued under the provisions of section 6 (b), clause (2), hereof, if the lease is maintained under the provisions of section 6 hereof, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

(c) Rights-of-way through the submerged lands of the outer Con-

Pipeline rights-of-way.

tinental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other mineral under such regulations and upon such conditions as to the application therefor and the survey, location and width thereof as may be prescribed by the Secretary, and upon the express condition that such oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from said submerged lands in the vicinity of the pipeline in such proportionate amounts as the Federal Power Commission, in the case of gas, and the Interstate Commerce Commission, in the case of oil, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed thereunder shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of section 4 (b) of this Act.

Forfeiture of grant.

SEC. 6. MAINTENANCE OF LEASES ON OUTER CONTINENTAL SHELF.—(a) The provisions of this section shall apply to any mineral lease covering submerged lands of the outer Continental Shelf issued by any State (including any extension, renewal, or replacement thereof heretofore granted pursuant to such lease or under the laws of such State) if—

Filing of lease, etc.

(1) such lease, or a true copy thereof, is filed with the Secretary by the lessee or his duly authorized agent within ninety days from the effective date of this Act, or within such further period or periods as provided in section 7 hereof or as may be fixed from time to time by the Secretary;

(2) such lease was issued prior to December 21, 1948, and would have been on June 5, 1950, in force and effect in accordance with its terms and provisions and the law of the State issuing it had the State had authority to issue such lease;

(3) there is filed with the Secretary, within the period or periods specified in paragraph (1) of this subsection, (A) a certificate issued by the State official or agency having jurisdiction over such lease stating that it would have been in force and effect as required by the provisions of paragraph (2) of this subsection, or (B) in the absence of such certificate, evidence in the form of affidavits, receipts, canceled checks, or other documents that may be required by the Secretary, sufficient to prove that such lease would have been so in force and effect;

Sums payable.

(4) except as otherwise provided in section 7 hereof, all rents, royalties, and other sums payable under such lease between June 5, 1950, and the effective date of this Act, which have not been paid in accordance with the provisions thereof, or to the Secretary or to the Secretary of the Navy, are paid to the Secretary within the period or periods specified in paragraph (1) of this subsection, and all rents, royalties, and other sums payable under such lease after the effective date of this Act, are paid to the Secretary, who shall deposit such payments in the Treasury in accordance with section 9 of this Act;

(5) the holder of such lease certifies that such lease shall continue to be subject to the overriding royalty obligations existing on the effective date of this Act;

(6) such lease was not obtained by fraud or misrepresentation;

(7) such lease, if issued on or after June 23, 1947, was issued upon the basis of competitive bidding;

Royalty.

(8) such lease provides for a royalty to the lessor on oil and gas of not less than 12½ per centum and on sulphur of not less than 5 per centum in amount or value of the production saved, removed, or sold from the lease, or, in any case in which the lease provides for a lesser royalty, the holder thereof consents in writing, filed with the Secretary, to the increase of the royalty to the minimum herein specified;

(9) the holder thereof pays to the Secretary within the period or periods specified in paragraph (1) of this subsection an amount equivalent to any severance, gross production, or occupation taxes imposed by the State issuing the lease on the production from the lease, less the State's royalty interest in such production, between June 5, 1950, and the effective date of this Act and not heretofore paid to the State, and thereafter pays to the Secretary as an additional royalty on the production from the lease, less the United States' royalty interest in such production, a sum of money equal to the amount of the severance, gross production, or occupation taxes which would have been payable on such production to the State issuing the lease under its laws as they existed on the effective date of this Act;

Termination of lease.

(10) such lease will terminate within a period of not more than five years from the effective date of this Act in the absence of production or operations for drilling, or, in any case in which the lease provides for a longer period, the holder thereof consents in writing, filed with the Secretary, to the reduction of such period so that it will not exceed the maximum period herein specified; and

Surety bond.

(11) the holder of such lease furnishes such surety bond, if any, as the Secretary may require and complies with such other reasonable requirements as the Secretary may deem necessary to protect the interests of the United States.

Maintenance of lease.

(b) Any person holding a mineral lease, which as determined by the Secretary meets the requirements of subsection (a) of this section, may continue to maintain such lease, and may conduct operations thereunder, in accordance with (1) its provisions as to the area, the minerals covered, rentals and, subject to the provisions of paragraphs (8), (9) and (10) of subsection (a) of this section, as to royalties and as to the term thereof and of any extensions, renewals, or replacements authorized therein or heretofore authorized by the laws of the State issuing such lease, or, if oil or gas was not being produced in paying quantities from such lease on or before December 11, 1950, or if production in paying quantities has ceased since June 5, 1950, or if the primary term of such lease has expired since December 11, 1950, then for a term from the effective date hereof equal to the term remaining unexpired on December 11, 1950, under the provisions of such lease or any extensions, renewals, or replacements authorized therein, or heretofore authorized by the laws of such State, and (2) such regulations as the Secretary may under section 5 of this Act prescribe within ninety days after making his determination that such lease meets the requirements of subsection (a) of this section: *Provided*, *however*, That any rights to sulphur under any lease maintained under the provisions of this subsection shall not extend beyond the primary term of such lease or any extension thereof under the provisions of such subsection (b) unless sulphur is being produced in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by such lease on the date of expiration of such primary term or extension: *Provided further*, That if sulphur is being produced in paying quantities on such date, then such rights

Sulphur.

shall continue to be maintained in accordance with such lease and the provisions of this Act: *Provided further*, That, if the primary term of a lease being maintained under subsection (b) hereof has expired prior to the effective date of this Act and oil or gas is being produced in paying quantities on such date, then such rights to sulphur as the lessee may have under such lease shall continue for twenty-four months from the effective date of this Act and as long thereafter as sulphur is produced in paying quantities, or drilling, well working, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are being conducted on the area covered by the lease.

Nonwaiver of U. S. claims.

(c) The permission granted in subsection (b) of this section shall not be construed to be a waiver of such claims, if any, as the United States may have against the lessor or the lessee or any other person respecting sums payable or paid for or under the lease, or respecting activities conducted under the lease, prior to the effective date of this Act.

Court review of determination.

(d) Any person complaining of a negative determination by the Secretary of the Interior under this section may have such determination reviewed by the United States District Court for the District of Columbia by filing a petition for review within sixty days after receiving notice of such action by the Secretary.

Lands beneath navigable waters.

(e) In the event any lease maintained under this section covers lands beneath navigable waters, as that term is used in the Submerged Lands Act, as well as lands of the outer Continental Shelf, the provisions of this section shall apply to such lease only insofar as it covers lands of the outer Continental Shelf.

Agreements with State.

SEC. 7. CONTROVERSY OVER JURISDICTION.—In the event of a controversy between the United States and a State as to whether or not lands are subject to the provisions of this Act, the Secretary is authorized, notwithstanding the provisions of subsections (a) and (b) of section 6 of this Act, and with the concurrence of the Attorney General of the United States, to negotiate and enter into agreements with the State, its political subdivision or grantee or a lessee thereof, respecting operations under existing mineral leases and payment and impounding of rents, royalties, and other sums payable thereunder, or with the State, its political subdivision or grantee, respecting the issuance or nonissuance of new mineral leases pending the settlement or adjudication of the controversy. The authorization contained in the preceding sentence of this section shall not be construed to be a limitation upon the authority conferred on the Secretary in other sections of this Act. Payments made pursuant to such agreement, or pursuant to any stipulation between the United States and a State, shall be considered as compliance with section 6 (a) (4) hereof. Upon the termination of such agreement or stipulation by reason of the final settlement or adjudication of such controversy, if the lands subject to any mineral lease are determined to be in whole or in part lands subject to the provisions of this Act, the lessee, if he has not already done so, shall comply with the requirements of section 6 (a), and thereupon the provisions of section 6 (b) shall govern such lease. The notice concerning "Oil and Gas Operations in the Submerged Coastal Lands of the Gulf of Mexico" issued by the Secretary on December 11, 1950 (15 F. R. 8835), as amended by the notice dated January 26, 1951 (16 F. R. 953), and as supplemented by the notices dated February 2, 1951 (16 F. R. 1203), March 5, 1951 (16 F. R. 2195), April 23, 1951 (16 F. R. 3623), June 25, 1951 (16 F. R. 6404), August 22, 1951 (16 F. R. 8720), October 24, 1951 (16 F. R. 10998), December 21, 1951 (17 F. R. 43), March 25, 1952 (17 F. R. 2821), June 26, 1952 (17 F. R. 5833), and December 24, 1952 (18 F. R. 48), respectively, is hereby approved and confirmed.

Bids.
Oil and gas leases.

SEC. 8. LEASING OF OUTER CONTINENTAL SHELF.—(a) In order to meet the urgent need for further exploration and development of the oil and gas deposits of the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the highest responsible qualified bidder by competitive bidding under regulations promulgated in advance, oil and gas leases on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. The bidding shall be (1) by sealed bids, and (2) at the discretion of the Secretary, on the basis of a cash bonus with a royalty fixed by the Secretary at not less than 12½ per centum in amount or value of the production saved, removed or sold, or on the basis of royalty, but at not less than the per centum above mentioned, with a cash bonus fixed by the Secretary.

(b) An oil and gas lease issued by the Secretary pursuant to this section shall (1) cover a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, (2) be for a period of five years and as long thereafter as oil or gas may be produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon, (3) require the payment of a royalty of not less than 12½ per centum, in the amount or value of the production saved, removed, or sold from the lease, and (4) contain such rental provisions and such other terms and provisions as the Secretary may prescribe at the time of offering the area for lease.

Sulphur leases.

(c) In order to meet the urgent need for further exploration and development of the sulphur deposits in the submerged lands of the outer Continental Shelf, the Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding sulphur leases on submerged lands of the outer Continental Shelf, which are not covered by leases which include sulphur and meet the requirements of subsection (a) of section 6 of this Act, and which sulphur leases shall be offered for bid by sealed bids and granted on separate leases from oil and gas leases, and for a separate consideration, and without priority or preference accorded to oil and gas lessees on the same area.

(d) A sulphur lease issued by the Secretary pursuant to this section shall (1) cover an area of such size and dimensions as the Secretary may determine, (2) be for a period of not more than ten years and so long thereafter as sulphur may be produced from the area in paying quantities or drilling, well reworking, plant construction, or other operations for the production of sulphur, as approved by the Secretary, are conducted thereon, (3) require the payment to the United States of such royalty as may be specified in the lease but not less than 5 per centum of the gross production or value of the sulphur at the wellhead, and (4) contain such rental provisions and such other terms and provisions as the Secretary may by regulation prescribe at the time of offering the area for lease.

Other mineral leases.

(e) The Secretary is authorized to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

Notices, publication.

(f) Notice of sale of leases, and the terms of bidding, authorized by this section shall be published at least thirty days before the date of sale in accordance with rules and regulations promulgated by the Secretary.

Deposits.

(g) All moneys paid to the Secretary for or under leases granted pursuant to this section shall be deposited in the Treasury in accordance with section 9 of this Act.

(h) The issuance of any lease by the Secretary pursuant to this Act, or the making of any interim arrangements by the Secretary pursuant to section 7 of this Act shall not prejudice the ultimate settlement or adjudication of the question as to whether or not the area involved is in the outer Continental Shelf.

Cancellation.

(i) The Secretary may cancel any lease obtained by fraud or misrepresentation.

(j) Any person complaining of a cancellation of a lease by the Secretary may have the Secretary's action reviewed in the United States District Court for the District of Columbia by filing a petition for review within sixty days after the Secretary takes such action.

SEC. 9. DISPOSITION OF REVENUES.—All rentals, royalties, and other sums paid to the Secretary or the Secretary of the Navy under any lease on the outer Continental Shelf for the period from June 5, 1950, to date, and thereafter shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

SEC. 10. REFUNDS.—(a) Subject to the provisions of subsection (b) hereof, when it appears to the satisfaction of the Secretary that any person has made a payment to the United States in connection with any lease under this Act in excess of the amount he was lawfully required to pay, such excess shall be repaid without interest to such person or his legal representative, if a request for repayment of such excess is filed with the Secretary within two years after the making of the payment, or within ninety days after the effective date of this Act. The Secretary shall certify the amounts of all such repayments to the Secretary of the Treasury, who is authorized and directed to make such repayments out of any moneys in the special account established under section 9 of this Act and to issue his warrant in settlement thereof.

Report to Congress.

(b) No refund of or credit for such excess payment shall be made until after the expiration of thirty days from the date upon which a report giving the name of the person to whom the refund or credit is to be made, the amount of such refund or credit, and a summary of the facts upon which the determination of the Secretary was made is submitted to the President of the Senate and the Speaker of the House of Representatives for transmittal to the appropriate legislative committee of each body, respectively: *Provided*, That if the Congress shall not be in session on the date of such submission or shall adjourn prior to the expiration of thirty days from the date of such submission, then such payment or credit shall not be made until thirty days after the opening day of the next succeeding session of Congress.

SEC. 11. GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS.—Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area.

SEC. 12. RESERVATIONS.—(a) The President of the United States may, from time to time, withdraw from disposition any of the unleased lands of the outer Continental Shelf.

War.

(b) In time of war, or when the President shall so prescribe, the United States shall have the right of first refusal to purchase at the market price all or any portion of any mineral produced from the outer Continental Shelf.

(c) All leases issued under this Act, and leases, the maintenance and operation of which are authorized under this Act, shall contain or be

construed to contain a provision whereby authority is vested in the Secretary, upon a recommendation of the Secretary of Defense, during a state of war or national emergency declared by the Congress or the President of the United States after the effective date of this Act, to suspend operations under any lease; and all such leases shall contain or be construed to contain provisions for the payment of just compensation to the lessee whose operations are thus suspended.

National defense areas.

(d) The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the outer Continental Shelf needed for national defense; and so long as such designation remains in effect no exploration or operations may be conducted on any part of the surface of such area except with the concurrence of the Secretary of Defense; and if operations or production under any lease theretofore issued on lands within any such restricted area shall be suspended, any payment of rentals, minimum royalty, and royalty prescribed by such lease likewise shall be suspended during such period of suspension of operation and production, and the term of such lease shall be extended by adding thereto any such suspension period, and the United States shall be liable to the lessee for such compensation as is required to be paid under the Constitution of the United States.

Uranium, thorium, etc.
60 Stat. 760.
42 USC 1805.

(e) All uranium, thorium, and all other materials determined pursuant to paragraph (1) of subsection (b) of section 5 of the Atomic Energy Act of 1946, as amended, to be peculiarly essential to the production of fissionable material, contained, in whatever concentration, in deposits in the subsoil or seabed of the outer Continental Shelf are hereby reserved for the use of the United States.

Helium.

(f) The United States reserves and retains the ownership of and the right to extract all helium, under such rules and regulations as shall be prescribed by the Secretary, contained in gas produced from any portion of the outer Continental Shelf which may be subject to any lease maintained or granted pursuant to this Act, but the helium shall be extracted from such gas so as to cause no substantial delay in the delivery of gas produced to the purchaser of such gas.

SEC. 13. NAVAL PETROLEUM RESERVE EXECUTIVE ORDER REPEALED.—Executive Order Numbered 10426, dated January 16, 1953, entitled "Setting Aside Submerged Lands of the Continental Shelf as a Naval Petroleum Reserve", is hereby revoked.

18 F. R. 405.

SEC. 14. PRIOR CLAIMS NOT AFFECTED.—Nothing herein contained shall affect such rights, if any, as may have been acquired under any law of the United States by any person in lands subject to this Act and such rights, if any, shall be governed by the law in effect at the time they may have been acquired: *Provided, however*, That nothing herein contained is intended or shall be construed as a finding, interpretation, or construction by the Congress that the law under which such rights may be claimed in fact applies to the lands subject to this Act or authorizes or compels the granting of such rights in such lands, and that the determination of the applicability or effect of such law shall be unaffected by anything herein contained.

SEC. 15. REPORT BY SECRETARY.—As soon as practicable after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing the amounts of all moneys received and expended in connection with the administration of this Act during the preceding fiscal year.

SEC. 16. APPROPRIATIONS.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 17. SEPARABILITY.—If any provision of this Act, or any section, subsection, sentence, clause, phrase or individual word, or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of any such provision, section, subsection, sentence, clause, phrase or individual word to other persons and circumstances shall not be affected thereby.

Approved August 7, 1953.

Replaced by Circular 1927 (11/58)

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1875]

PART 192—OIL AND GAS LEASES

NON-COMPETITIVE LEASES; OFFER TO LEASE, AND ISSUANCE OF LEASE

Section 192.42 (a), (b), (f) and (g) are amended to read as follows:

§ 192.42 *Offer to lease, and issuance of lease.* (a) To obtain a non-competitive lease an offer to accept such lease must be made on Form 4–1158, "Offer to lease and lease for oil and gas," or on unofficial copies of that form in current use: *Provided,* That the copies are exact reproductions of one page of both sides of the official approved one page form and are without additions, omissions or other changes or advertising. Form 4–1158 or a valid reproduction of the official form will also constitute the lease when signed by the Manager of the Land Office.

(b) Five copies of Form 4–1158, or valid reproduction thereof, for each offer to lease shall be filed in the proper land office, or for land or deposits in States for which there are no land offices, with the Director of the Bureau of Land Management, Washington 25, D. C.[1] If less than five copies are filed, the offer will not be rejected, if not otherwise subject to rejection, until 30 days from filing have elapsed and if during that period the remaining required copies are filed, the offeror's priority will date from the date of the first filing. If the additional copies are not filed within the 30-day period, the offer will be rejected and returned and will afford no priority to the offeror. Should the additional copies be filed after the 30-day period but before the offer has been rejected, the offeror will have a priority as of the later filing date. The offer must be filed on a form in effect at the date of filing. For the purpose of this part an offer will be considered filed when it is received in the proper office during business hours.

* * * * *

(f) If the offeror is a corporation the offer must be accompanied by a statement showing (1) the State in which it is incorporated, (2) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters, (3) the percentage of voting stock and of all the stock owned by aliens for those having addresses outside of the United States, and (4) the names and addresses of the stockholders holding 20 percent or more of the stock of the corporation. When the stock owned by aliens is over 10 percent, additional information may be required by the Bureau before the lease is issued or production is obtained. A separate showing of citizenship and holdings of stockholders owning or controlling 20 percent or more of the stock of any class must also be furnished. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

(g) (1) Except as provided in subparagraph (2) of this paragraph an offer will be rejected and returned to the offeror and will afford the applicant no priority if:

(i) The land description is insufficient to identify the lands or the lands are not entirely within a 6-mile square.

(ii) The total acreage exceeds 2,560 acres, except where the rule of approximation applies or is less than 640 acres or the equivalent of a section and is not within the exceptions in paragraph (d) of this section.

(iii) The full filing fee and the first year's rental do not accompany the offer, the rental payment to be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest legal subdivision.

(iv) The offer is signed by an agent in behalf of the offeror and the offer is not accompanied by a statement over the offeror's own signature with respect to holdings and citizenship and by the statements and evidence required by paragraph (e) (4) of this section.

(v) The offer is signed by a guardian or trustee in behalf of a minor and is not accompanied by the evidence required by paragraph (e) (5) of this section.

(vi) Less than five copies of the offer are filed and the copies lacking are not received in the land office before the expiration of 30 days from the date of receipt of the copies first filed.

(vii) There is noncompliance with item 5 (a) and (e) of the Special Instructions. The offeror will be given an opportunity to file a new offer within 30 days from service of the rejection, and the fee and rental payments on the old offer will be applied to the new offer if the new offer shows the serial and receipt numbers of the old offer. The advance rental will be returned unless within the 30-day period another offer is filed.

(2) An offer to lease containing any of the following deficiencies will be approved by the signing officer provided all other requirements are met:

(i) An offer deficient in the first year's rental by not more than 10 percent. The additional rental must be paid within 30 days from notice under penalty of cancellation of the lease.

(ii) An offer covering not more than 10 percent over the maximum allowable acreage of 2,560 acres. The lease will be approved for 2,560 acres in the discretion of the signing officer or so much over that amount as may be included under the rule of approximation.

(iii) An offer completed in pencil or script.

(iv) An offer on a lease form not currently in use.

(v) An offer or a form not correctly reproduced provided it contains the statement that the offeror agrees to be bound by the terms and conditions of the lease form in effect at the date of filing.

(Sec. 32, 41 Stat. 450; 30 U. S. C. 189)

DOUGLAS MCKAY,
Secretary of the Interior.

JULY 2, 1954.

[F. R. Doc. 54–5225; Filed, July 8, 1954; 8:48 a. m.]

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[1] Offers for lands or mineral deposits in the following States should be filed at the land office named: North or South Dakota, land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma, at Santa Fe, New Mexico. (Effective August 2, 1954.)

Published in 19 F. R. July 9, 1954.

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64155

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter S—Rights-of-Way

[Circular 1876]

PART 244—RIGHTS-OF-WAY OTHER THAN FOR RAILROAD PURPOSES AND FOR LOGGING ROADS ON THE OREGON AND CALIFORNIA AND COOS BAY REVESTED LANDS

MISCELLANEOUS AMENDMENTS

1. Paragraph (a) (1) of § 244.6 is amended to read as follows:

§ 244.6 *Documents which must accompany application—*(a) *Maps.* * * *

(1) The scale should be 2,000 feet to the inch for rights-of-way for such structures as canals, ditches, pipelines, and transmission lines and 1,000 feet to the inch for rights-of-way for reservoirs, except where a larger scale is required to represent properly the details of the proposed developments, in which case the scales should be 1,000 feet to the inch and 500 feet to the inch, respectively. For electric transmission lines having a nominal voltage of less than 33 kv. map scales may at option of the applicant be 5,280 feet to the inch.

2. Paragraph (b) of § 244.8 is amended to read as follows:

§ 244.8 *Commencement of construction work in advance of approval of right-of-way; trespass.* * * *

(b) Any grant of advance permission is solely for the convenience of the applicant and is not a commitment by the Department that a right-of-way will be approved. The Department's authority in acting on a right-of-way application is not restricted in any way by the grant of advance permission or any requirements laid down in such grant of permission and the Department may impose additional or different requirements, within the scope of the applicable statute and lawful regulations thereunder, as conditions precedent to the approval of the right-of-way. A grant of advance permission is revocable at will, and the grantee assumes all the risk of operating under such permission.

3. Paragraphs (a), (h), (l), and (m) of § 244.9 are amended to read as follows:

§ 244.9 *Terms and conditions.* * * *

(a) To comply with State and Federal laws applicable to the project for which the right-of-way is approved, and to the lands which are included in the right-of-way, and lawful existing regulations thereunder.

* * * * *

(h) To comply with such other specified conditions, within the scope of the applicable statute and lawful regulations thereunder, with respect to the occupancy and use of the lands as may be found by the agency having supervision of the lands to be necessary as a condition to the approval of the right-of-way in order to render its use compatible with the public interest.

* * * * *

(l) That the allowance of the right-of-way shall be subject to the express condition that the exercise thereof will not unduly interfere with the management, administration, or disposal by the United States of the lands affected thereby, and that he agrees and consents to the occupancy and use by the United States, its grantees, permittees, or lessees of any part of the right-of-way not actually occupied or required by the project, or the full and safe utilization thereof, for necessary operations incident to such management, administration, or disposal.

(m) That the right-of-way herein granted shall be subject to the express covenant that it will be modified, adapted, or discontinued if found by the Secretary to be necessary, without liability or expense to the United States, so as not to conflict with the use and occupancy of the land for any authorized works which may be hereafter constructed thereon under the authority of the United States.

4. Paragraphs (a) and (f) of § 244.21 are amended to read as follows:

§ 244.21 *Payment required; exceptions; default; revision of charges.* (a) The charge for use and occupancy of public and reservation lands for rights-of-way for telephone, telegraph, and power transmission lines, water pipelines, ditches or canals under the act of February 15, 1901 (31 Stat. 790; 43 U. S. C. 959); telephone, telegraph, and power transmission lines under the act of March 4, 1911 (36 Stat. 1253; 43 U. S. C. 961); tramroads under the act of January 21, 1895 (28 Stat. 635; 43 U. S. C. 956); oil and gas pipelines under section 28 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 449), as amended August 21, 1935 (49 Stat. 678; 30 U. S. C. 185); and water pipelines, ditches, flumes, tunnels, or canals under section 4 of the act of February 1, 1905 (33 Stat. 628; 16 U. S. C. 524), shall be at the rate of five dollars ($5) per mile or fraction thereof per calendar year or fraction thereof for rights-of-way not over 100 feet in width and one dollar ($1) per mile or fraction thereof for each additional 20 feet or fraction thereof in width.

* * * * *

(f) At any time not less than five years after either the approval of the right-of-way or the last revision of rental charges thereunder, the regional administrator, after reasonable notice and opportunity for hearing, may review such charges and impose such new charges as may be reasonable and proper commencing with the ensuing calendar year.

(R. S. 161, 453, 2478; 5 U. S. C. 22, 43 U. S. C. 2, 1201)

5. Paragraph (a) of § 244.41 is amended to read as follows:

§ 244.41 *Applications which may be submitted under the acts of February 15, 1901, and March 4, 1911.* (a) All applications where it is sought to acquire a right-of-way for the main purpose of irrigation, as contemplated by sections 18 to 21 of the act of March 3, 1891 (26 Stat. 1101; 43 U. S. C. 946–949), and section 2 of the act of May 11, 1898 (30 Stat. 404; 43 U. S. C. 951), must be submitted under the 1891 and 1898 acts, in accordance with the applicable regulations in this part.

6. Paragraph (b) of § 244.43 is amended to read as follows:

§ 244.43 *Transmission lines.* * * *

(b) A description of the transmission line of which the line for which a right-of-way is requested forms a part, giving in reasonable detail the points between which it will extend, its characteristics and purpose. There must also be included a statement as to the voltage for which the line is designed and at which it is to be operated initially, and a statement as to whether it is to serve a single customer, or a number of customers, or is intended to transmit power solely for the applicant's use. If the line is to serve a single customer or is for the applicant's own use, the nature of such use must be given (such as airway beacon, coal mine, and irrigation pumps).

7. Paragraph (c) of § 244.43 is deleted.

8. Paragraph (b) of § 244.44 is amended to read as follows:

§ 244.44 *Terms and conditions.* * * *

(b) Neither the privilege nor the right to occupy or use the lands for the purpose authorized shall relieve him of any legal liability for causing inductive or conductive interference between any project transmission line or other project works constructed, operated, or maintained by him on the servient lands, and any radio installation, telephone line, or other communication facilities now or hereafter constructed and operated by the United States or any agency thereof.

9. Paragraphs (c) and (d) of § 244.44 are deleted.

(31 Stat. 790, 36 Stat. 1253; 43 U. S. C. 959, 961)

RALPH A. TUDOR,
Acting Secretary of the Interior.

AUGUST 11, 1954.

[F. R. Doc. 54-6333; Filed, Aug. 16, 1954; 8:45 a. m.]

Published in 19 F. R. August 17, 1954.

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Replaced by Circular 1895 (11/54)

See Circ. 1860, too.
See Circ. 1895

BUREAU OF LAND MANAGEMENT
LAND OFFICE
BILLINGS, MONTANA
AUG 30 1954
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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1877]

PART 250—PUBLIC SALES

MISCELLANEOUS AMENDMENTS

Copy sent to [illegible] 9/1/54
✓ [illegible]

1. Section 250.2 is amended by adding thereto paragraph (f) to read as follows:

§ 250.2 *Definitions.* * * *

(f) "Land office" means the land office for the district in which the lands are situated.

2. The headnote for § 250.9 is amended, and a paragraph (c) is added to that section, to read:

§ 250.9 *Publication of notice; time and proof of publication; posting required; reimbursement for publication costs.* * * *

(c) Where, after the date of the approval of this paragraph, a party expends money for publication of notice of a public sale, and the authorization for the sale is canceled, or a sale, if made, is vacated, because retention of the land in Federal ownership is deemed to be in the public interest, such party will be reimbursed by the Government for the expense so incurred. Where such action is taken at the request of a Federal agency other than the Bureau of Land Management, that agency will be requested to reimburse such party for the expense. Where an authorization for sale is canceled, or a sale, if made, is vacated because the appraised price or the sale price, of the land is found to be inadequate, and the land is again offered for sale, the republication will be made at the expense of the Government, and the person awarded the land must reimburse and pay directly to the applicant the amount expended for the first publication of notice. Such payment shall be made in the manner prescribed in and shall be governed by § 250.12 (a).

3. Paragraph (c) of § 250.10 is amended to read as follows:

§ 250.10 *The bidding; place for sale.* * * *

(c) Bids sent by mail wil be considered only if received at the place and prior to the hour fixed in the notice of the sale. These bids must be accompanied by certified checks, post office money orders, bank drafts, or cashiers' checks for the amounts of the bids and must be enclosed in sealed envelopes which must be marked as prescribed in the notice of sale. The envelopes containing the sealed bids will not be opened until the time fixed for the sale.

4. Section 250.11 (b) (1) is amended to read as follows:

§ 250.11 *Action at close of bidding.* * * *

(b) *Preference right of purchase; declaration of purchaser.* * * *

(1) (i) A preference right to purchase must be supported by proof of the claimant's ownership of the whole title to the contiguous lands (that is, he must show that he had the whole title in fee), and must be accompanied by the purchase price of the land.[3]

(ii) Failure to submit to the land office satisfactory proof during the 30-day period after the highest bid has been received will cause the preference right to be lost as to the particular public sale. Such proof must consist of (*a*) a certificate of the local recorder of deeds, or (*b*) an abstract of title or a certificate of title prepared and certified by a title company or by an abstracting company, showing that the claimant owns adjoining land in fee simple at or after the date of the sale. However, if the preference-right claimant does not own adjoining land at the close of the preference-right period, his preference-right claim may be lost.

(iii) After a case has been closed, the data filed pursuant to this section may be returned.

(R. S. 2478; 43 U. S. C. 1201)

ORME LEWIS,
Assistant Secretary of the Interior.

AUGUST 11, 1954.

[F. R. Doc. 54-6367; Filed, Aug. 17, 1954; 8:45 a. m.]

Published in 19 F. R. August 18, 1954

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Obsolete - see memo 1-8-58

Sec 1825

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1879]

PART 244—RIGHTS-OF-WAY OTHER THAN FOR RAILROAD PURPOSES AND FOR LOGGING ROADS ON THE OREGON AND CALIFORNIA AND COOS BAY REVESTED LANDS

SUBPART I—RIGHTS-OF-WAY THROUGH PUBLIC LANDS AND RESERVATIONS FOR OIL AND NATURAL GAS PIPELINES AND PUMPING PLANT SITES UNDER THE MINERAL LEASING ACT

APPROVAL OF RIGHT-OF-WAY

Section 244.65 is amended to read as follows:

§ 244.65 *Approval of right-of-way.* The approval of such right-of-way shall be subject to the express conditions that the use of the pipeline for the transportation of oil, gas, or other similar products, shall be limited to such products produced in conformity with State and Federal laws, including laws prohibiting waste.

(Sec. 28, 49 Stat. 678; 30 U. S. C. 185)

FRED G. AANDAHL,
Acting Secretary of the Interior.

AUGUST 26, 1954.

[F. R. Doc. 54-6859; Filed, Aug. 31, 1954; 8:46 a. m.]

Published in 19 F.R. September 1, 1954

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1880]

PART 254—SALE, GRANT, OR LEASE OF PUBLIC LANDS FOR RECREATION AND PUBLIC PURPOSES

Part 254 is completely revised as follows effective 30 days after approval hereof by the Secretary of the Interior:

Sec.
254.1 Statutory authority.
254.2 Who may apply.
254.3 Lands subject to disposition.
254.4 Purposes for which lands may be acquired.
254.5 General limitations and conditions on dispositions.
254.6 Classifications.
254.7 Applications.
254.8 Purchase price and lease rentals.
254.9 Lease provisions.
254.10 Publications; protests; patents; transfers.
254.11 Applications for transfer, change of use, and for renewal of leases.
254.12 Lands patented under prior acts; applications for transfer and change of use.
254.13 Cooperation with the National Park Service.
254.14 Minerals; timber.
254.15 Appeals.

AUTHORITY: §§ 254.1 to 254.14 issued under [illegible]tat. 741, 68 Stat. 173; 43 U. S. C. 869.

§ 254.1 *Statutory authority.* The act of June 14, 1926 (44 Stat. 741), as amended by the act of June 4, 1954 (68 Stat. 173; 43 U. S. C. 869), authorizes the Secretary of the Interior, under specified conditions, to lease or sell lands for recreational and public purposes. This legislation is referred to as "the act" in these regulations in this part.

§ 254.2 *Who may apply.* The following are qualified to make applications under the act: States and the Territory of Alaska; Federal, State, and Territory of Alaska instrumentalities, and political subdivisions, including counties and municipalities; and nonprofit associations and nonprofit corporations.

§ 254.3 *Lands subject to disposition.* The act is applicable to any public domain lands except (a) lands withdrawn or reserved for national forests, national parks and monuments, and national wildlife refuges; (b) Oregon and California revested railroad grant lands and Coos Bay reconveyed wagon-road grant lands; and (c) Indian lands and lands set aside or held for use by or the benefit of Indians.

§ 254.4 *Purposes for which lands may be acquired.* (a) Qualified applicants are permitted by the act to acquire available lands for use for any public purposes for which they are authorized by their creating authority to hold lands. Non[illegible]fit associations and nonprofit cor[illegible]ations are permitted, in addition, to acquire lands for use for any recreational purpose consistent with their creating authority.

(b) No applicant can secure lands under the act, however, for any use authorized under any other public land law. This restriction does not apply to the use of lands for residence, business, recreation, and community-site purposes authorized by the act of June 1, 1938 (52 Stat. 609; 43 U. S. C., 682a, Part 257 of this chapter) as amended.

§ 254.5 *General limitations and conditions on dispositions.* (a) Applicants will not be granted title to or use of land under the act unless and until (1) the land is first classified as suitable for the purpose sought and not needed for any other public purpose or is not more valuable and suitable for some other use, including the development of power; and, (2) if the land is under the jurisdiction of any agency or instrumentality outside the Department of the Interior, that agency or instrumentality consents to the proposed disposition.

(b) Applicants will not be granted title to or use of land under the act except for an established or definitely proposed project. A definitely proposed project is a project which has been authorized by competent authority irrespective of whether or not it has been financed and otherwise fully implemented, providing that there exists the probability that it will be fully implemented within a reasonable time.

(c) No applicant can receive under the act patent for more than 640 acres in any one calendar year.

(d) No patent will be issued under the act unless and until the land is officially surveyed.

(e) All leases and patents issued under the act will reserve to the United States all minerals, together with the right to mine and remove the same under applicable laws and regulations to be established by the Secretary of the Interior.

(f) Municipal corporations cannot secure land under this act if it is not within convenient access to the municipality and within the same State or Territory as the municipality. Other qualified applicants cannot secure land outside of their political boundaries or other area of jurisdiction.

§ 254.6 *Classifications.* (a) Lands in Alaska classified under the act and lands in the States classified pursuant to the act under section 7 of the act of June 28, 1934 (48 Stat. 1272, 43 U. S. C. 315f), as amended, will be segregated from all appropriations, including locations under the mining laws, except as provided in the order of classification or in any modification or revision thereof.

(b) Classifications made pursuant to the act on the motion of the Government for which no application is filed within 18 months after issuance will be vacated and the land restored to its former status.

§ 254.7 *Applications.* (a) Applicants under the act must submit, in triplicate, to the appropriate office of the Bureau of Land Management an application on Form 4–1267, executed in accordance with the instructions on the form. Each application must be accompanied by (1) three copies of a statement describing the proposed use of the lands, showing that the application involves an established or definitely proposed project, and giving as much detail concerning the plan of development and improvement of the project as is necessary to describe the project and its purpose adequately and the proposed disposition of any revenues to be realized from it and (2) a filing fee of $10.

(b) The acreage applied for in any one application for patent cannot exceed 640 acres and no more than 640 acres will be conveyed to any one grantee in any one calendar year.

§ 254.8 *Purchase price and lease rentals.* (a) Conveyances under the act for historic monument purposes will be made without any monetary consideration.

(b) Sales to nonprofit associations or nonprofit corporations for other than historic monument purposes will be made at prices fixed through appraisal of the fair market value of the land, taking into consideration the purposes for which the lands will be used.

(c) All other sales will be made at prices fixed through (1) appraisal of the fair market value of the lands or otherwise, taking into consideration the purpose for which the land will be used or (2) any method which considers the purpose for which the land will be used.

(d) Annual rentals under leases will be fair and reasonable and will be based on the value of the lands as determined by the requirements of paragraphs (b) and (c) of this section.

(e) A patent applicant, when the land has been appraised, will be required to pay the full purchase price before the patent will be issued. The rental under a lease shall be payable annually in advance. Upon appraisal of the land, a lease applicant will be required to pay the first year's rental before the lease will be issued. Upon the voluntary relinquishment of a lease before the expiration of its term, any rental paid for the unexpired portion of the term will be returned to the lessee upon a proper application for repayment to the extent that the amount paid covers a full lease year or years of the remainder of the term of the original lease.

§ 254.9 *Lease provisions.* (a) The term of leases under the act will be fixed by the authorized official but will not exceed 20 years. Leases will be renewable at the discretion of such official.

(b) Leases will be issued on Form 4–1270 and will contain the usual terms and conditions required by law, public policy, and, insofar as possible, by Department of the Interior procedure.

(c) Leases will contain such terms and conditions which the signing officer or the administering agency considers necessary for the proper development of the land, for the protection of Federal property, and for the protection of the public interests.

(d) Leases will be terminable by the authorized official upon failure of the lessee to comply with the terms of the lease, upon a finding that all or part of the land is being devoted to other than the use authorized by the lease, or upon a finding that the land has not been used by the lessee for the purpose specified in the lease for any consecutive period specified by the authorized official but not more than 5 years or less than 2 years.

(e) Leases will not be transferable except with the consent of the proper official. Transferees must meet all the qualifications of applicants under the act and will be subject to all the terms and conditions of the regulations in this part.

§ 254.10 *Publications: protests: patents: transfers.* (a) Applicants for patents under the act will be required upon demand to publish once a week for four consecutive weeks in accordance with § 106.18 of this chapter, at their expense, in a designated newspaper and in a designated form, a notice allowing all persons claiming the land adversely to file in the appropriate office their objections to the issuance of patent under the applications. A protestant must serve on the applicant a copy of the objections and furnish evidence of such service.

(b) Such applicants must file a statement of the publisher, accompanied by a copy of the notice published, showing that publication has been had for the required time.

(c) All patents under this act will contain a clause providing that if the patentee or its successor attempts to transfer title to or control over the lands to another or the lands are devoted to a use other than that for which the lands were conveyed, without consent of competent authority, title shall revert to the United States. This clause will terminate 25 years after issuance of the patent. Transferees must meet all the qualifications of applicants under the act and will be subject to the terms and conditions of the regulations in this part.

§ 254.11 *Applications for transfer, change of use, and for renewal of leases.* (a) Applications under the act for permission to add to, or to change the use specified in a lease or patent, applications to transfer title or lease to a third party, and applications for renewal of a lease must be filed in triplicate with the appropriate office of the Bureau of Land Management. No form is specified but the matter should be fully explained by the applicant.

(b) Applications for permission to add to or to change use must be accompanied by three copies of the showing required by § 254.7 (a) (1).

(c) Applications for approval of transfers of title or lease must be accompanied by three copies of Form 4–1267 executed by the proposed transferee in accordance with § 254.7.

(d) Applications for removal of leases must be accompanied by three copies of a statement showing, in detail sufficient to describe the situation adequately, the past use of the lands and the proposed use after renewal of the lease.

(e) Each application must be accompanied by a filing fee of $10.

(f) Prior to approval of an application filed under paragraph (b) of this section the land may be reappraised in accordance with § 254.8 and the beneficiary required to make such payments as are found justified by such reappraisal.

§ 254.12 *Lands patented under p[illegible] acts; applications for transfer and change of use.* (a) Applications under section 4 of the act for permission to transfer title or to change the use in respect to land covered by any patent issued prior to June 4, 1954, must be submitted in conformance with § 254.11.

(b) The land, however, will not be subject to reappraisal and the beneficiary will not be required to make any payment other than the filing fee.

§ 254.13 *Cooperation with the National Park Service.* In furtherance of the purposes of the act of June 23, 1936 (49 Stat. 1894; 16 U. S. C. 17k), the National Park Service will review and make recommendations on all applications for recreational purposes submitted by States and the Territory of Alaska or their political subdivisions.

§ 254.14 *Minerals; timber.* (a) Any minerals subject to the leasing laws reserved to the United States in the lands patented or leases under the terms of the act may be disposed of to any qualified person under applicable laws and regulations. Until rules and regulations are issued, other minerals are not subject to disposition or to prospecting except by an authorized Federal agency.

(b) A lessee under the act will not be permitted to cut timber from the leased lands without prior permission from the appropriate officer.

§ 254.15 *Appeals.* An appeal pur[illegible]ant to the rules of practice, Part 221 [illegible] this chapter, may be taken from the decision of the authorized officer of the Bureau of Land Management.

Clarence A. Davis,
Acting Secretary of the Interior.

September 3, 1954.

[F. R. Doc. 54–7122; Filed, Sept. 10, 1954; 8:47 a. m.]

Published in 19 F.R. September 11, 1954

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LO

Replaced by Circular 1899 (11/58)

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circ. 1881]

PART 257—LEASE OR SALE OF SMALL TRACTS, NOT EXCEEDING FIVE ACRES, FOR HOME, CABIN, CAMP, HEALTH, CONVALESCENT, RECREATIONAL, OR BUSINESS SITES

MINERALS; TIMBER

See 1764

copy sent to land adj. 10/13/54 JS.

BUREAU OF LAND MANAGEMENT
LAND OFFICE
BILLINGS, MONTANA
OCT 11 1954
REC'D

Section 257.15 is amended to read as follows:

§ 257.15 *Minerals; timber.* (a) Any lease or patent issued under the act will reserve to the United States all deposits of coal, oil, gas, or other minerals, together with the right to prospect for, mine, and remove the same under such regulations as the Secretary may prescribe. Any minerals subject to the leasing laws in the lands patented or leased under the terms of the act may be disposed of to any qualified person under applicable laws and regulations in force at the time of such disposal. No provision is made at this time to prospect for, mine, or remove the other kinds of minerals that may be found in such lands; and until rules and regulations have been issued, such reserved deposits will not be subject to prospecting or disposition.

(b) (1) Because of the need for strategic and fissionable source minerals as well as minerals important to the economic and industrial welfare of the Nation and its security, the Director may authorize any Federal agency to enter upon any of the lands classified for small tract purposes within the State of Florida (and such other States or Territory for which approval of this action may be given by the Secretary of the Interior), for exploratory purposes to determine whether such lands are mineral in character and the nature, extent and incidence of such mineral, if any, even though such lands are under lease or have been patented in accordance with paragraph (a) of this section.

(2) The exploratory work conducted under the authority of this section, shall not be construed as permitting damage to the permanent structures or buildings of the small tract lessees or patentees or their lawful successors in interest.

(c) A lessee will not be permitted to cut timber from the leased lands without written permission from the Area Administrator or Director. Such permission will be granted only if it is necessary to cut the timber to clear the land or to erect improvements thereon.

(52 Stat. 609, as amended; 43 U. S. C. 682a)

DOUGLAS MCKAY,
Secretary of the Interior.

SEPTEMBER 10, 1954.

[F. R. Doc. 54-7240; Filed, Sept. 15, 1954; 8:45 a. m.]

Published in 19 F.R. September 16, 1954

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INT.-DUP. SEC., WASH., D.C. 67971

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Washington 25, D. C.

October 15, 1954

Memorandum

To: Executive Officer
Washington Staff Officers
Area Administrators, Areas 1, 2 and 3

From: Director

Subject: 43 C.F.R., 160.14 (b)

My attention has been called to a typographical error in Circular 1882, concerning Part 160—Grazing Leases, Rentals, Refunds. Subsection (b) should read "No refund of rentals * * *" instead of "No refund or rentals * * *." Please have this correction made in ink on all copies distributed to offices under your jurisdiction.

Adequate copies of this memorandum are being sent each State Supervisor for distribution to the field offices concerned.

W. G. Guernsey
Associate Director

BUREAU OF LAND MANAGEMENT
LAND OFFICE
BILLINGS, MONTANA
OCT 22 1954

BUREAU OF LAND MANAGEMENT
LAND OFFICE
BILLINGS, MONTANA
OCT 11 1954
REC'D.

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter H—Grazing

[Circular 1882]

PART 160—GRAZING LEASES

RENTALS, REFUNDS

~~Obsolete~~ ~~- see memo I-8258~~

Replaced by # 2014
3/10/59

See 1807

Section 160.14 is hereby amended to read as follows:

§ 160.14 *Rentals, refunds.* (a) The lessee shall pay the lease rental in the amount and manner specified in the lease. The rental shall be computed in conformity with the following rate tabulations, unless for sufficient reasons a different rate is authorized by the Director:

GRAZING RENTAL RATE TABULATION

Estimated grazing capacity in acres per animal unit month	Estimated grazing capacity in animal units year long per section	Yearly lease-rate per acre
107.00	0.5	$0.001
53.00	1.0	.002
36.00	1.5	.003
27.00	2.0	.004
21.00	2.5	.006
18.00	3.0	.007
15.00	3.5	.008
13.00	4.0	.009
12.00	4.5	.010
11.00	5.0	.011
9.00	6.0	.013
7.50	7.0	.016
6.50	8.0	.018
6.00	9.0	.020
5.50	10.0	.022
5.00	11.0	.024
4.50	12.0	.027
4.00	13.0	.030
3.75	14.0	.032
3.50	15.0	.034
3.25	16.0	.037
3.00	17.0	.040
2.75	19.0	.044
2.50	21.0	.048
2.25	24.0	.053
2.00	27.0	.060
1.75	30.0	.069
1.50	36.0	.080
1.25	43.0	.096
1.00	53.0	.120
0.50	107.0	.240
0.25	213.0	.480

One cow or one horse or five sheep or five goats constitute one animal unit. The rental charge will not in any case be fixed at less than $1.00 per annum. The rental may be adjusted to reflect changes in approved rates at the end of each three-year period to apply to the rental charges for the next three-year period.

(b) No refund ~~or~~ of rentals properly paid in accordance with these regulations and the terms of the lease will be made because of a failure to use the grazing privileges granted by the lease, except that during periods of range depletion due to severe drought or other natural causes or in case of a general epidemic of disease during the life of the lease the Secretary of the Interior will in his discretion remit, refund, reduce in whole or in part, or postpone the payment of rentals for such period of depletion or general epidemic.

(Sec. 2, 48 Stat. 1270; 43 U. S. C. 315a)

FRED G. AANDAHL,
Acting Secretary of the Interior.

SEPTEMBER 17, 1954.

[F. R. Doc. 54-7481; Filed, Sept. 23, 1954; 8:45 a. m.]

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INT.-DUP. SEC., WASH., D.C. 68488

BUREAU OF LAND MANAGEMENT
LAND OFFICE
BILLINGS, MONTANA
OCT 11 1954
REC'D.

~~Obsolete - see amend 1-8-58~~
Replaced by 1996

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter C—Areas Subject to Special Laws

[Circular 1883]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVENED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

SALE OF TIMBER ON O & C LANDS

Paragraph (a) of § 115.39 is amended to read as follows and a new paragraph (e) is added:

§ 115.39 *Sale and appraisal.* (a) All timber to be sold under the provisions of the act of August 28, 1937, shall be appraised and in no case shall be sold at less than the appraised price. Such timber shall be sold to a responsible, qualified purchaser under the appropriate form of contract. All sales, other than those specified in paragraphs (b), (c), (d) and (e) of this section, shall be made only after inviting competitive bidding through publication and posting and the submission of either sealed or oral bids.

* * * * *

(e) When a road is constructed with Government funds, the timber on the right-of-way may be sold to the contractor constructing the road at the appraised price without publishing, posting or calling for bids.

(Sec. 5, 50 Stat. 875)

DOUGLAS MCKAY,
Secretary of the Interior.

SEPTEMBER 18, 1954.

[F. R. Doc. 54-7480; Filed, Sept. 23, 1954; 8:45 a. m.]

Published in 19 F.R. September 24, 1954

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INT.-DUP. SEC., WASH., D.C. 68488

C.F.R. 11/5/54
noted BB.

Replaced by
Cir. 1948
(1/58)

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1884]

PART 160—GRAZING LEASES

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

PREFERENCE RIGHT LEASES FOR LANDS RESTORED FROM WITHDRAWAL; ISSUANCE OF LICENSES AND PERMITS

1. Section 160.8 is amended to read as follows:

§ 160.8 *Leases of withdrawn or reserved lands; preference right leases for lands restored from withdrawal.* (a) The signing officer may issue leases for public lands withdrawn for resurvey, or withdrawn and reserved in aid of legislation, or for power sites, classification or other public purposes,[4] if the use of the land for grazing is not inconsistent with the purposes of the withdrawal. Lands included in stock driveway and public water reserve withdrawals may be leased in accordance with the § 295.7 (c) of this chapter. Any lease issued covering withdrawn lands must contain the stipulations which have been prescribed for the protection and use of the land for the purpose for which it was withdrawn or reserved.

(b) Where public lands are restored from a withdrawal and the signing officer determines that a grazing lease for the lands may be issued, the party using such lands or part thereof for grazing purposes under authority of the agency which had jurisdiction over the land immediately prior to their restoration, shall have a superior preference right to lease the restored lands previously used by him. The preference right must be asserted and an application for lease on combined application and lease Form 4-721 (see § 160.5) must be filed not more than 90 days after the date of signing of the order of revocation of the withdrawal, or not more than 90 days after the end of the current lease year under which the land is being used, whichever is the later. The application must be accompanied by a copy of the prior lease, license, permit or other authority upon which the preference claim is based. The new lease will be dated as of the first day following the end of such current lease year, or as of the date of its issuance, in the discretion of the signing officer and for such term as he may determine.

(Sec. 2, 48 Stat. 1270; 43 U. S. C. 315a. Interprets or applies sec. 15, 48 Stat. 1275, as amended; 43 U. S. C. 315m)

2. Paragraph (e) of § 161.6 of the Federal Range Code for Grazing Districts (43 CFR 161.6 (e)) is amended as follows:

i. The caption is amended to read:

(e) *Administration of lands additionally available; preference right for lands restored from withdrawal.* * * *

ii. The present paragraph (e) is designated as subparagraph (1) of paragraph (e).

iii. A new subparagraph is added as follows:

(2) Where public lands are restored from withdrawal and the range manager determines that the lands are available for grazing use, the party using such lands or part thereof for grazing purposes under authority of the agency which had jurisdiction over the lands immediately prior to their restoration, shall have a superior preference to the further grazing use of such lands. The preference right must be asserted and an application for license or permit, on Form I-291 obtainable from the range manager, must be filed with that officer not more than 90 days after the date of signing of the order of revocation of the withdrawal, or not more than 90 days after the end of the current lease year under which the land is being used, whichever is the later. The application must be accompanied by a copy of the prior lease, license, permit or other authority upon which the preference claim is based. The range manager may issue to such applicant an annual license or a term permit as he shall determine, authorizing such grazing use subject to the applicable regulations in this part.

(Sec. 2, 48 Stat. 1270; 43 U. S. C. 315a. Interprets or applies sec. 9, 48 Stat. 1273, as amended; 43 U. S. C. 315h)

ORME LEWIS,
Acting Secretary of the Interior.

OCTOBER 12, 1954.

[F. R. Doc. 54-8177; Filed, Oct. 18, 1954; 8:29 p. m.]

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[4] Certain lands withdrawn for reclamation purposes are, pursuant to the cooperative agreement of February 28, 1945, between the Bureau of Reclamation and the Bureau of Land Management, leased in accordance with principles of section 15 leases, under authority of subsection (I) of section 4, act of December 5, 1924 (43 Stat. 703, 43 U. S. C. sec. 501.) Those lands withdrawn for reclamation purposes which are not subject to the Cooperative Agreement of February 28, 1945, will, upon restoration from the reclamation withdrawal become subject to the provisions of paragraph (b) of this section.

Published in 19 F.R. October 20, 1954

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69702

Repl. by C-2173

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter F—Color of Title and Riparian Claims

[Circular 1885]

PART 141—COLOR OF TITLE AND RIPARIAN CLAIMS APPLICABLE TO PARTICULAR STATES

COLOR OF TITLE CLAIMS, MICHIGAN

Section 141.27 is completely revised to read as follows:

§ 141.27 *Statutory authority and provisions; applicable regulations.* (a) The act of June 30, 1948 (62 Stat. 1171), as amended August 28, 1954 (68 Stat. 916), directs the Secretary of the Interior to issue a patent to a tract or tracts of public land in Monroe County, Michigan, not exceeding in the aggregate 160 acres, upon payment for the land at the rate of $1.25 per acre, where prior to June 30, 1955, it is shown to his satisfaction that the land has been held in good faith and in peaceable adverse possession by a citizen of the United States, his ancestors or grantors, for more than 20 years prior to June 30, 1948, under claim or color-of-title and where improvements have been placed on the land or some part thereof reduced to cultivation. For purposes of the act, the term "citizen" includes corporations organized under the laws of the United States or any State or Territory thereof.

(b) Applications under the act must be filed and will be processed in acccordance with the regulations contained in §§ 140.5, 140.6 (a–d), 140.7 (a), 140.10, 140.11, and 140.12 of this chapter.

(R. S. 2478; 43 U. S. C. 1201)

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

OCTOBER 25, 1954.

[F. R. Doc. 54-8509; Filed, Oct. 28, 1954; 8:45 a. m.]

Published in 19 F.R. October 29, 1954

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circ. 1886]

PART 200—MINERAL DEPOSITS IN ACQUIRED LANDS AND UNDER RIGHTS-OF-WAY

SUPPLEMENTAL INFORMATION REQUIRED IN LEASE OR PERMIT APPLICATIONS, AND PLACE FOR APPLICATION FILING

Section 200.5 is amended to read:

§ 200.5 *Supplemental information required in lease or permit applications, and place for application-filing.* (a) Each application for lease or permit must contain (1) a statement that applicant's interest, direct or indirect, in leases, permits or applications for similar minerals does not exceed a maximum chargeable acreage permitted by law to be held for that mineral in federally owned acquired land in the same State, and (2) a complete and accurate description of the land for which a lease or permit is desired. If surveyed according to the governmental "rectangular system", it should be described by legal subdivision, section, township and range, and if not so surveyed, by metes and bounds connected with a corner of the public surveys by courses and distances, or described in a manner consistent with the description in the deed to the United States. The description should, if practicable, refer to (i) the administrative unit or project of which the land is a part, the purpose for which the land was acquired by the United States, and the name of the governmental body having jurisdiction over the land (ii) the name of the persons who conveyed the land to the United States, (iii) the date of such conveyance, and the place, liber and page number of its official recordation.

(b) An application under the act must not include any public lands and it must be filed with the Bureau of Land Management, Department of the Interior, Washington 25, D. C.

(Sec. 10, 61 Stat. 915; 30 U. S. C. 359)

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

OCTOBER 28, 1954.

[F. R. Doc. 54-8624; Filed, Nov. 2, 1954; 8:45 a. m.]

Published in 19 F.R. November 3, 1954

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter A—Alaska

[Circular 1887]

PART 72—PUBLIC USES

Part 72 is completely revised to read as follows:

SALE OF PUBLIC LANDS TO RELIGIOUS OR FRATERNAL ASSOCIATIONS OR PRIVATE CORPORATIONS FOR CEMETERY PURPOSES

Sec.
72.1 Statutory authority; governing regulations.

SALE, GRANT, OR LEASE OF PUBLIC LANDS FOR RECREATION AND PUBLIC PURPOSES

72.2 Statutory authority; governing regulations.

TRANSFER OF JURISDICTION OVER PUBLIC LANDS FOR USE UNDER THE ALASKA PUBLIC WORKS ACT

72.3 Effect of application for transfer.

AUTHORITY: §§ 72.1 to 72.3 issued under sec. 1, 54 Stat. 1192; 43 U. S. C. 363. Statutory provisions interpreted or applied are cited to text in parentheses.

SALE OF PUBLIC LANDS TO RELIGIOUS OR FRATERNAL ASSOCIATIONS OR PRIVATE CORPORATIONS FOR CEMETERY PURPOSES

§ 72.1 *Statutory authority; governing regulations.* The sale of public lands in Alaska to religious or fraternal associations or private corporations for cemetery purposes is authorized by the act of March 1, 1907 (34 Stat. 1052; 43 U. S. C. 682), and the regulations thereunder (Part 253 of this chapter).

(34 Stat. 1052; 43 U. S. C. 682)

SALE, GRANT, OR LEASE OF PUBLIC LANDS FOR RECREATION AND PUBLIC PURPOSES

§ 72.2 *Statutory authority; governing regulations.* The sale, grant, or lease of public lands in Alaska to the Territory and its political subdivisions and to nonprofit associations and corporations for recreation and public purposes are authorized by the act of June 14, 1926 (44 Stat. 741), as amended June 4, 1954 (68 Stat. 173; 43 U. S. C. 869), and the regulations thereunder (Part 254 of this chapter).

(68 Stat. 173; 43 U. S. C. Sup 869)

TRANSFER OF JURISDICTION OVER PUBLIC LANDS FOR USE UNDER THE ALASKA PUBLIC WORKS ACT

§ 72.3 *Effect of application for transfer.* An application for the transfer of jurisdiction over public land in Alaska made under section 7 of the Alaska Public Works Act (63 Stat. 629; 48 U. S. C. 486e) based on a project which has been approved under section 4 of the act (63 Stat. 627; 48 U. S. C. 486b) and filed with the appropriate office of the Bureau of Land Management in Alaska will have the effect of segregating the land from all forms of appropriation under the public-land laws, including the mining and mineral leasing laws, subject to existing valid rights, pending the issuance of an order of transfer or the rejection of the application.

(63 Stat. 629; 48 U. S. C. 486e)

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

NOVEMBER 5, 1954.

[F. R. Doc. 54-8896; Filed, Nov. 12, 1954; 8:45 a. m.]

Published in 19 F. R. November 13, 1954

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter T—Sale, Lease, or Use and Acquisitions

[Circular 1888]

PART 253—CEMETERY SITES

The title of Part 253 is amended to read as set forth above and the part is completely revised to read as follows:

Sec.
253.1 Statutory authority.
253.2 General limitations and conditions.
253.3 Applications.
253.4 Purchase price, publication, and protests.

AUTHORITY: §§ 253.1 to 253.4 issued under R. S. 2478; 43 U. S. C. 1201. Interpret or apply 34 Stat. 1052; 43 U. S. C. 682.

§ 253.1 *Statutory authority.* The act of March 1, 1907 (34 Stat. 1052; 43 U. S. C. 682), authorizes the Secretary of the Interior to sell and convey lands for cemetery purposes to religious or fraternal associations or private corporations, empowered by the laws under which they are organized or incorporated to hold lands for such purposes.

§ 253.2 *General limitations and conditions.* (a) No association or corporation can secure title to more than 80 acres of public lands under the act.

(b) Only unreserved and unappropriated nonmineral public lands are available for selection. Applicants will not be granted title to public lands subject to section 7 of the act of June 28, 1934 (48 Stat. 1272, 43 U. S. C. 315f), as amended, unless and until the lands are classified as suitable for cemetery purposes and not needed for any other public purpose or higher use.

(c) Patents will issue only for surveyed land and only in the name of the association or corporation.

(d) All patents will contain a clause providing that if the land or any part of it should be sold or cease to be used for cemetery purposes, title shall revert to the United States.

§ 253.3 *Applications.* (a) Applicants under the act must submit, in duplicate, an application to the appropriate office of the Bureau of Land Management. No specific form is required but the application must show (1) the name and address of the association or corporation, (2) legal description of the lands desired or if unsurveyed, sufficient information to identify the location, boundaries, and the area of the tract which must be as nearly rectangular as possible, (3) the authority that empowered the association or corporation to hold lands for cemetery purposes in the State or Territory in which the land is located, (4) the official character and express authority of the officer or officers applying on behalf of the association or corporation, and (5) that the lands are not adversely occupied or used,

(b) Each application must be accompanied by a filing fee of $10.

§ 253.4 *Purchase price, publication, and protests.* (a) Purchase price will be fixed by appraisal of the fair market value of the lands but at not less than $1.25 per acre and must be paid before patent will issue.

(b) Applicants will be required to publish once a week for five consecutive weeks in accordance with § 106.18 of this chapter, at their expense, in a designated newspaper and in a designated form, a notice allowing all persons claiming the land adversely to file in the appropriate office their objections to the issuance of patent. A protestant must serve on the applicant a copy of the objections and furnish evidence of such service.

(c) Applicants must file a statement of the publisher, accompanied by a copy of the notice published, showing that publication has been had for the required time.

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

NOVEMBER 5, 1954.

[F. R. Doc. 54-8897; Filed, Nov. 12, 1954; 8:46 a. m.]

Published in 19 F. R. November 13, 1954

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1889]

Replaced by 2005

PART 196—PHOSPHATE LEASES AND USE PERMITS

SIZE OF LEASEHOLD AND LIMITATION OF ACREAGE HOLDINGS

Section 196.2 is hereby amended to read as follows:

§ 196.2 *Size of leasehold and limitation of acreage holdings.* (a) Except where the rule of approximation applies, a lease may not include over 2,560 acres in reasonably compact form. Each lease shall describe the land involved by legal subdivisions of the public land surveys. No person, association or corporation, may hold at any one time, either directly or indirectly, leases that exceed in the aggregate 5,120 acres in any one State, or 10,240 acres in the United States.

(b) A lessee, upon a showing that the leased deposits extend into adjoining Federal lands may, upon application to be filed in the Land Office, be granted, subject to the acreage limitation under paragraph (a) of this section, a lease for additional acreage, if the Manager, after consultation with the Mining Supervisor, shall determine that the increased acreage will result in conservation of natural resources and will provide for the most economical and efficient recovery of a minable deposit without waste. In applying this paragraph, fringe acreage in an area not of interest to more than one operator, and lacking sufficient reserves of phosphate deposits to warrant independent development, may be leased noncompetitively either by separate lease or by adding to an existing leasehold (within the aggregate limitation of 2,560 acres), subject to a bonus of not less than $1.00 an acre, a minimum royalty, and such other terms and conditions as may be determined at the time the lease offer is made. If, however, the fringe acreage has sufficient reserves to warrant independent development, or, if, following appropriate inquiry of operators in the area and consultation with the Mining Supervisor, the Manager determines that there is competitive interest therein, the lands will be offered competitively under § 196.11.

(Sec. 32, 41 Stat. 450; 30 U. S. C. 189)

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

NOVEMBER 9, 1954.

[F. R. Doc. 54-9024; Filed, Nov. 16, 1954; 8:47 a. m.]

Published in 19 F. R. November 17, 1954

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1890]

PART 200—MINERAL DEPOSITS IN ACQUIRED LANDS AND UNDER RIGHTS-OF-WAY

MISCELLANEOUS AMENDMENTS

The following amendments are necessary to show a change from the practice of issuing present interest noncompetitive leases for acquired lands on a form separate and distinct from the lease application, to a procedure by which a standardized noncompetitive oil and gas lease offer form for acquired lands becomes a present interest lease when signed on behalf of the United States. The change will make the handling of such leases for acquired lands substantially similar to that for public domain lands and will eliminate some of the steps now necessary in issuing such leases. The amendments will become effective 60 days after date of issuance hereof by the Secretary of the Interior, except as provided in § 200.11. The amendments are as follows:

Sections 200.3, 200.4, 200.5, 200.6, 200.7 (a), (b) and (d), and 200.8 are amended, and a new § 200.11 is added, to read as follows:

§ 200.3 *Stipulations and consent of agency having jurisdiction of land.* Leases or permits may be issued only with the consent of the head or other appropriate official of the executive department, independent establishment or instrumentality having jurisdiction over the lands containing the deposits, or holding a mortgage or deed of trust secured by such lands, and subject to such conditions as that official may prescribe to insure adequate utilization of the lands for the primary purpose for which they were acquired or are being administered. All applications and offers for permits or leases should name, if practicable, the Government agency from which consent to the issuance of a permit or lease must be obtained, or the agency that may have title records covering the ownership of the mineral interest involved, and identify the project, if any, of which the land is a part. Permits or leases to which such consent is necessary will not be issued until the lessee or permittee executes such stipulations as may be required by the consenting agency.

§ 200.4 *Other regulations applicable: Lease forms, applications, and offers.* Except as otherwise specifically provided in §§ 200.1 to 200.11, inclusive, the regulations prescribed under the mineral leasing laws, and contained in Parts 70, 71, and 191 to 198, inclusive, of this chapter, shall govern the disposal and development of minerals under the act to the extent that they are not inconsistent with the provisions of the act. All present interest acquired lands oil and gas leases whether the Government's interest be full or fractional shall be issued on Form 4–1196. Future interest and fractional future interest leases shall be issued on Form 4–1097.

§ 200.5 *Supplemental information required in offers and applications for leases and permits; place of filing.* (a) Each offer or application for a lease or permit must contain (1) a statement that applicant's interest, direct or indirect, in leases, permits or applications for similar minerals does not exceed a maximum chargeable acreage permitted to be held for that mineral in federally owned acquired lands in the same State, and (2) a complete and accurate description of the lands for which a lease or permit is desired. If surveyed according to the governmental "rectangular system", they should be described by legal subdivision, section, township and range, and if not so surveyed, by metes and bounds connected with a corner of the public surveys by courses and distances, or described in a manner consistent with the description in the deed of the United States. The description should, if practicable, refer to (i) the administrative unit or project of which the land is a part, the purpose for which the land was acquired by the United States, and the name of the governmental body having jurisdiction over the land, (ii) the name of the persons who conveyed the lands to the United States, (iii) the date of such conveyance, and the place, liber and page number of its official recordation.

(b) An application or offer under the act must be filed in the proper land office as set forth in § 200.8 (b). Such application or offer will be considered only as to the acquired lands described therein. If public domain lands or minerals are also included the application or offer will be rejected as to such lands or minerals.

§ 200.6 *Restriction on holdings.* The amount of acquired lands acreage that may be held under lease or permit either directly or indirectly, individually or as a member of an association or a corporation may not be in excess of the amount of public domain acreage for the same minerals permitted to be held under the mineral leasing laws. Public domain lease holdings shall not be charged against acquired lands lease holdings; such respective holdings shall not be interchargeable. Where the United States owns only a fractional interest in the mineral resources of the lands involved, only that part of the total acreage involved in the lease which is proportionate to the ownership by the United States of the mineral resources therein shall be charged as acreage holdings. The acreage embraced in a future interest lease is not to be charged as acreage holdings until the lease for the future interest takes effect.

§ 200.7 *Leases of future or fractional interests*—(a) *General.* Subject to the provisions of section 3 of the act, noncompetitive leases for future or fractional interests in lands believed, but not known to contain mineral deposits may be issued whenever the public interest will be best served thereby. There is no required form for applications or offers for noncompetitive leases of any mineral subject to the act, except oil and gas. However, such applications and requests to have leases offered competitively for lands known to contain mineral deposits should, to the extent applicable, conform to and include the information required by §§ 200.3, 200.4, 200.5, and this section. The terms and conditions of leases covering future or fractional interests in mineral deposits other than oil and gas, of competitive leases for future or fractional interests in oil and gas deposits within the known geological structure of a producing oil or gas field, and of compensatory royalty agreements under § 192.7 of this chapter covering future or fractional interests, will be established on an individual case basis.

(b) *Offers to lease and leases covering future interests in oil and gas deposits.* A noncompetitive lease for a whole or fractional future interest will be issued only to an offeror who owns all or substantially all of the present operating rights, to the minerals in the lands in the offer as mineral fee owner, as lessee or as an operator holding such rights. There is no required form for an appli-

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cation or offer to lease such whole or fractional future interest. The application or offer therefor should however to the extent applicable, conform to and include the information required by §§ 200.3, 200.4, 200.5 and must be accompanied by a certified abstract of title containing record evidence of the creation of, and offeror's right to the claimed mineral interest. If the offeror acquired the operating rights under a lease or contract, the offer shall also be accompanied by three copies of such lease or contract. In lieu of an abstract, a certificate of title may be furnished. A future interest offer may include tracts in which the United States owns a fractional present interest as well as the future interest for which a lease is sought, but it shall not include tracts where the United States owns the entire mineral interest at the time the offer is made. Future interest leases will become effective on the date when the United States becomes vested with the mineral rights as stated in the lease. A future interest lease having different effective dates for different lands will prescribe a common date for the payment of annual rental or minimum royalty due under the lease with appropriate prorating of periods of less than one year.

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(d) *Offers for fractional interest oil and gas leases other than future fractional interests.* An offer for a fractional present interest noncompetitive lease must be executed on Form 4–1196 and must be accompanied by a statement showing whether the offeror owns the entire operating rights to the fractional mineral interest not owned by the United States in each tract covered by the offer to lease, and if not, the extent of the offeror's ownership in the operating rights in each tract, and the names of other parties who own operating rights in such fractional interests. Ordinarily, the issuance of a lease to one who, upon such issuance, would own less than a majority interest of the operating rights in any such tract, will not be regarded as in the public interest, and an offer leading to such result will be rejected.

§ 200.8 *Offer to lease and issuance of lease.* (a) To obtain a present interest noncompetitive oil and gas lease, whether the Government's interest be whole or fractional, an offer to lease must be made on Form 4–1196, "Offer to Lease and Lease for Oil and Gas; Noncompetitive Acquired Lands" or an unofficial exact one page copy of the approved form. The unofficial copies shall include the following statement: "This form is an exact copy of Form 4–1196". Form 4–1196, or a valid reproduction, will constitute the lease, when signed by the authorized signing officer of the Bureau of Land Management.

(b) Seven copies of Form 4–1196 or valid reproduction thereof, for each offer to lease shall be filed in the land office for the State or land district in which the land is situated, or for land or deposits in States for which there are no land offices, with the Bureau of Land Management, Washington 25, D. C., except that offers for lands or deposits in North or South Dakota, must be filed in the land office at Billings, Montana; for lands or deposits in Nebraska or Kansas in the land office at Cheyenne, Wyoming; and for lands or deposits in Oklahoma and Texas in the land office at Santa Fe, New Mexico. If less than seven copies are filed, the offer will not be rejected, if not otherwise subject to rejection, until 30 days from filing have elapsed and if during that period the remaining required copies are filed, the offeror's priority will date from the date of the first filing. If the additional copies are not filed within the 30-day period, the offer will be rejected and returned and will afford no priority to the offeror. Should the additional copies be filed after the 30-day period but before the offer has been rejected, the offeror will have a priority as of the later filing date. The offer must be filed on a form in effect at the date of filing. For the purpose of this part an offer will be considered filed when it is received in the proper office during business hours.

(c) One of the copies of the offer first filed should be prominently marked as the "original" by the offeror. If not so marked by the offeror one copy of the offer will be marked "original" by the Bureau of Land Management. The copy marked "original" will govern as to the lands to be covered by the lease. Each offer should specify, if possible, the name of the governmental agency having jurisdiction over the surface of the land and also the unit of the project involved.

(d) Each offer should be typewritten or printed plainly in ink and signed in ink by the offeror or the offeror's duly authorized attorney in fact or agent. An offer may be made by a legal guardian or trustee for the benefit of non-alien minors or incompetents. Offers may not be filed by minors or incompetents. Each offer must describe the lands by legal subdivision, section, township, range and State, if the lands are surveyed, or, if not surveyed, by a metes and bounds description connected with a corner of the public land surveys by course and distance or described in a manner consistent with the description in the deed conveying such lands to the United States. The offer must cover only lands entirely within a six-mile square, and must be for an area of not more than 2,560 acres, except where the rule of approximation applies.

(1) Where an offer to lease covers minerals which are subject to sale under the act of September 6, 1950 (64 Stat. 769; 7 U. S. C. 1033), and surface title to the lands applied for is vested in different ownerships, separate leases will be issued for so much of the land as is vested in each separate surface ownership.

(2) If the offer is for lands in which the government has only a future int est in the oil and gas, the offeror mu file the additional showing required by § 200.7 (b) and execute the supplemental agreement required by § 200.7 (c).

(e) Each offer, when first filed, shall be accompanied by:

(1) A filing fee of $10 which will be retained as a service charge even though the offer be rejected or withdrawn by offeror in whole or in part.

(2) Full payment of the first year's rental based on the total acreage if known, or if not known, on the basis of 40 acres for each smallest legal subdivision, or on the computed acreage included within a metes and bounds description.

(3) Evidence of the authority of an attorney in fact or agent who signs the offer and lease on behalf of the offeror except that this shall not apply to an officer of a corporation signing an offer on behalf of the corporation; and in addition if the offeror is an individual, a statement signed by him stating his citizenship and whether his direct and indirect interests in oil and gas leases, applications, and offers for acquired land in the same State exceed 46,080 chargeable acres.

(4) If the offer is signed by an attorney in fact or agent, or if any attorney in fact or agent has been authorized to act on behalf of the offeror with respect to the offer or lease, separate statements over the signatures of the attorney fact or agent and the offeror statin whether or not there is any agreement or understanding between them, or with any other person, either verbal or written by which the attorney in fact or agent or such other person has received, or is to receive, any interest in the lease when issued, including royalty interest or interest in an operating agreement under the lease giving full details of the agreement or understanding, if it is a verbal one; the statement must be accompanied by a copy of any such written agreement or understanding; and if such an agreement or understanding exists, the statement of the attorney in fact or agent should set forth the citizenship of the attorney in fact or the agent or other person and whether his direct and indirect interests in oil and gas leases, applications, and offers therefor for acquired land in the same State exceed 46,080 acres. This paragraph does not apply where the attorney in fact or agent is a member of an unincorporated association (including a partnership) or is an officer of a corporation and has an interest in the offer or the lease to be issued solely by reason of the fact that he is a member of the association or a stockholder in the corporation.

(5) If the offer is made by a guardian, committee, or trustee, a certified copy of the court order authorizing him to act as such and to enter into the lease in behalf of the minor or incompetent, and a statement as to the citizenship and holdings of the minor or incompetent.

(6) If the offer is made by an association (including a partnership), it must be accompanied by a certified copy of the articles of association and the same showing as to the citizenship and holdings of its members as required of an individual.

(f) If the offeror is a corporation the offer must be accompanied by a statement showing (1) the State in which it is incorporated, (2) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters, (3) the percentage of voting stock and of all the stock owned by aliens or by those having addresses outside of the United States, and (4) the names and addresses of the stockholders holding 20 percent or more of the stock of the corporation. When the stock owned by aliens is over 10 percent, additional information may be required by the Bureau before the lease is issued or production is obtained. A separate showing of citizenship and holdings of stockholders owning or controlling 20 percent or more of the stock of any class must also be furnished. Where such material has previously been filed, a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

(g) (1) Except as provided in subparagraph (2) of this paragraph an offer will be rejected and returned to the offeror and will afford the applicant no priority if:

(i) The land description is insufficient to identify the lands, or the lands are not entirely within a 6-mile square.

(ii) The total acreage exceeds 2,560 acres, except where the rule of approximation applies.

(iii) The full filing fee and the first year's rental do not accompany the offer, the rental payment to be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest legal subdivision.

(iv) The offer is signed by an agent in behalf of the offeror and the offer is not accompanied by a statement over the offeror's own signature with respect to holdings and citizenship and by the statements and evidence required by paragraph (e) (4) of this section.

(v) The offer is signed by a guardian or trustee in behalf of a minor and is not accompanied by the evidence required by paragraph (e) (5) of this section.

(vi) Less than seven copies of the offer are filed and the copies lacking are not received in the land office before the expiration of 30 days from the date of receipt of the copies first filed.

(vii) There is noncompliance with item 5 (a) of the Special Instructions. The offeror will be given an opportunity to file a new offer within 30 days from service of the rejection, and the fee and rental payments on the old offer will be applied to the new offer if the new offer shows the serial and receipt numbers of the old offer. The advance rental will be returned unless within the 30-day period another offer is filed.

(2) An offer to lease containing any of the following deficiencies will be approved by the signing officer provided all other requirements are met:

(i) An offer deficient in the first year's rental by not more than 10 percent. The additional rental must be paid within 30 days from notice under penalty of cancellation of the lease.

(ii) An offer covering not more than 10 percent over the maximum allowable acreage of 2,560 acres. The lease will be approved for 2,560 acres in the discretion of the signing officer or so much over that amount as may be included under the rule of approximation.

(iii) An offer completed in pencil or script.

(iv) An offer on a lease form not currently in use.

(v) An offer or a form not correctly reproduced provided it contains the statement that the offeror agrees to be bound by the terms and conditions of the lease form in effect at the date of filing.

(h) An offer may not be withdrawn, either in whole or in part, unless the withdrawal is received before the lease, an amendment of the lease (Form 4–1163) or a separate lease, whichever covers the land described in the withdrawal, has been signed on behalf of the United States.

(i) (1) The United States will indicate its acceptance of the lease offer, in whole or in part, and the issuance of the lease by the signature of the appropriate officer thereof in the space provided. An executed copy of the lease will be mailed to the offeror at the address of record.

(2) Leases for a whole or fractional future interest will be issued on Form 4–1097. Such leases will be sent to applicant or offeror for execution and return to the proper land office for execution by the appropriate officer. Thereafter, an executed copy will be mailed to lessee.

(j) If any of the land described in item 2 of the offer is open to oil and gas filing when the offer is filed but is omitted from the lease for any reason and thereafter becomes available for leasing to the offeror, the original lease will be amended to include the omitted land unless before the issuance of the amendment to Form 4–1196, the office where the offer was filed received a withdrawal of the offer as to such land or an election to receive a separate lease in lieu of an amendment. Such election shall consist of a signed statement by the offeror asking for a separate lease accompanied by a new offer on Form 4–1196 describing the remaining lands in his original offer, executed pursuant to this section. The new offer will have the same priority as the old offer. It need not be accompanied by the filing fee. The rental payment held on the original offer will be applied to the new offer. The rental and the lease term for the land added by such an amendment shall be the same as if the land had been included in the original lease when it was issued. If a separate lease is issued, it will be dated in accordance with § 192.40a of this chapter.

(k) A transfer of the whole interest in all or any part of the offer may be approved as an incident to the transfer, by assignment or otherwise, of the whole interest in all or any part of the lease. A transfer of an undivided fractional interest in the whole offer may be approved as an incident to the transfer of an undivided fractional interest in the whole lease. An application for approval of a transfer of an offer must include a statement that the transferee agrees to be bound by the offer to the extent that it is transferred and must be signed by the transferee. In other instances transfers of an offer will not be approved prior to the issuance of a lease for the lands or deposits covered by the said transfers.

(l) If an offeror dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed. If probate has been completed, or is not required, the lease will be issued to the heirs or devisees. However, before the lease is issued the executor or administrator, or the heirs or devisees, as the case may be, must file an offer to lease on Form 4–1196. Such offer will retain the priority of the deceased's offer. If there are any minor heirs or devisees, such offer can only be made by their legal guardian or trustee in their behalf. Each such offer must be accompanied by the following information:

(1) Where probate of the estate has not been completed;

(i) Evidence that the executor or administrator has authority to act as such and to sign the offer and if required, the bond forms.

(2) Where the probate or administration of the estate has been completed;

(i) A certified copy of the decree of distribution.

(3) Where no administration or probate proceedings are required;

(i) A statement signed by the heirs that they are the only heirs of the offeror, citing the provisions of the law of the deceased's last domicile showing that no probate or administration is required.

§ 200.11 *Pending applications; use of new Form 4–1196.* Applications filed prior to the effective date of the amended regulations in this part will be processed in accordance with the regulations in effect immediately prior to such date and leases will continue to be issued in such cases on Form 4–1097, except:

(a) An applicant may, without losing his priority, file Form 4–1196 for the land described in his application, pursuant to § 200.8, without paying another filing fee if it has already been paid.

(b) When required, the holder of an application filed prior to the effective date of §§ 200.3, 200.4, 200.5, 200.6, 200.7 (a), (b) and (d) and 200.8 must, within 30 days from receipt of notice, file an offer of lease (Form 4–1196) covering the same land in, and bearing the same serial number as his pending application. No additional filing fee will be required. Priority of the original application will be retained. Falure, upon demand to refile will result in the rejection of the original application without further notice.

(c) From the date of issuance of §§ 200.3, 200.4, 200.5, 200.6, 200.7 (a), (b) and (d) and 200.8 until their effective date, filings for leases may be made on Form 4–1196, or in accordance with the prior regulations in this part.

(Sec. 10, 61 Stat. 915; 30 U. S. C. Sup. 359)

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

DECEMBER 1, 1954.

[F. R. Doc. 54-9621; Filed, Dec. 3, 1954; 8:49 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1891]

PART 194—POTASSIUM PERMITS AND LEASES

REVISION OF PART

This part is hereby completely revised as follows, effective 60 days after date of issuance hereof by the Secretary of the Interior:

GENERAL

Sec.
194.1 Statutory authority.
194.2 Definitions.
194.3 Area and limitation on holdings.
194.4 Qualifications of applicant.
194.5 Completion of pending applications and prior claims.
194.6 Permits and leases for lands disposed of with reservation of potassium.
194.7 Requirements when lands are within a withdrawal.

POTASSIUM PROSPECTING PERMITS

194.8 Application for permit.
194.9 Rights conferred.
194.10 Permit bond.
194.11 Extension of permits.
194.12 Cancelled permits.
194.13 Reward for discovery.

POTASSIUM LEASES

194.14 Form of lease.
194.15 Lease bond.
194.16 Minimum production.
194.17 Application for lease by competitive bidding.
194.18 Notice of lease offer.
194.19 Bid deposits.
194.20 Award of lease.
194.21 Readjustment of terms and conditions at end of twenty-year periods.
194.22 Relinquishment of lease.
194.23 Cancellation of lease.

TRANSFER OF PERMITS AND LEASES

194.24 Transfers, including subleases.
194.25 Overriding royalties.

AUTHORITY: §§ 194.1 to 194.25 issued under sec. 32, 41 Stat. 450; 30 U. S. C. 189. Interpret or apply secs. 1–7, 44 Stat. 1057, 1058, as amended, 47 Stat. 151, 60 Stat. 957, 62 Stat. 292; 30 U. S. C. 281–287.

GENERAL

§ 194.1 *Statutory authority.* (a) Sections 1 to 7 of the Act of February 7, 1927, as amended (44 Stat. 1057, 30 U. S. C. secs. 281–287), authorize the Secretary of the Interior to:

(1) Issue permits to prospect for chlorides, sulphates, carbonates, borates, silicates, or nitrates of potassium in public lands or in public lands disposed of with a reservation of such deposits to the United States.

(2) Lease such lands containing valuable deposits of such substances.

(b) As authorized in section 4 of the act, potassium leases may also provide for the development of sodium, magnesium, aluminum, or calcium deposits, in any of the forms described in said section, associated with the potassium deposits.

§ 194.2 *Definitions.* The following terms, as used in this part or in any lease or permit approved under the regulations in this part, shall have the meanings here given:

(a) *Secretary.* The Secretary of the Interior or any person duly authorized to exercise the powers vested in that officer.

(b) *Director.* The Director of the Bureau of Land Management or any person duly authorized to exercise the powers vested in that officer.

(c) *Land office, or appropriate land office.* The land office of the Bureau of Land Management for the State or part of State or Territory in which the lands covered by a permit, lease, or application therefor, are situated; and as to the States for which there is no land office, the Bureau of Land Management, Washington 25, D. C.[1]

(d) *Manager or Land Office Manager.* The manager of the appropriate land office as defined in paragraph (c) of this section, and, as to the Washington, D. C. office, the Supervisor, Eastern States Office, Bureau of Land Management.

(e) *Mining Supervisor.* The Regional Mining Supervisor of the Geological Survey for the region in which the lands under permit or lease are situated.

§ 194.3 *Area and limitation on holdings.* (a) Except where the rule of approximation applies, a lease or permit may not include over 2,560 acres in reasonably compact form entirely within a six-mile square. No person, association, or corporation may hold, either directly or indirectly, in any one State, permits for an area that exceeds in the aggregate 51,200 acres; and, except as hereinafter provided, leases for an area that exceeds in the aggregate 15,360 acres.

(b) Any person, association, or corporation holding acreage approximating 15,360 acres of Federal land in a single mining unit and refining development, upon a showing that the leased deposits extend into adjoining Federal lands may, upon application to be filed in the land office be granted a lease for an additional acreage of not to exceed 2,560 acres if the Manager, after consultation with the Mining Supervisor, shall determine that such increase will result in conservation of natural resources and will provide for the most economical and efficient recovery as a single unit of a minable deposit without waste. In applying this subsection, fringe acreage in an area not of interest to more than one operator, and lacking sufficient reserves of potassium deposits to warrant independent development as a single mining unit, may be leased noncompetitively upon a bonus payment of not less than $1.00 an acre, and a delayed payment of not less than 15 cents a ton of ore mined in addition to the base royalty. If, however, the fringe acreage has sufficient reserves to warrant independent development, or if, following appropriate inquiry of operators in the area and consultation with the Mining Supervisor, the Manager determines that there is competitive interest therein, the lands will be offered competitively under § 194.18.

(c) The Manager, after consultation with the Mining Supervisor, may, upon a finding that the granting of such leases would be in the public interest, grant to any such lessee, leases for additional acreage not to exceed 10,240 acres in all as a separate mining unit, and may include in such additional leases a provision requiring the construction of additional refining facilities.

§ 194.4 *Qualifications of applicant.* (a) As used in this section, "applicant" means an applicant for a permit under § 194.8, for a lease under § 194.13, the successful bidder to whom a lease is awarded under § 194.20, or an assignee or transferee under § 194.24.

(b) Permits and leases may be issued to citizens of the United States, associations of citizens, and corporations organized under the laws of the United States or of any State or Territory thereof.

(c) All applicants must file with the manager statements and evidence as follows (unless previously filed, in which event a reference by serial number to the record and the land office in which filed, together with a statement as to any amendments, will be accepted):

(1) As to citizenship, whether native born or naturalized.

(2) If applicant is an association (including a partnership), it must submit a certified copy of the articles of association and the same showing as to the citizenship and holdings of its members as required of an individual.

(3) A corporation must submit a statement showing:

(i) The State in which it is incorporated.

(ii) That it is authorized to hold leases for potassium deposits and that the person executing an instrument on behalf of the corporation is authorized to act in such matters.

(iii) The percentage of voting stock and of all the stock owned by aliens for those having addresses outside of the United States. When the stock owned by aliens is over 10 percent, additional information may be required.

(iv) The name, address, citizenship, and acreage holdings of any stockholder owning or controlling 20 percent or more of the stock of any class, of the corporation.

(4) That holdings do not exceed the acreage limitations specified in § 194.3.

§ 194.5 *Completion of pending applications and prior claims.* (a) Section 6 of the act of February 7, 1927, supra, which repealed the act of October 2, 1917 (40 Stat. 297), excepts valid claims existing at the passage of the act and thereafter maintained in compliance with the law under which initiated, which claims may be perfected under such law, including discovery.

(b) As to potassium mining claims, only those claims may be patented which were initiated prior to and were valid existing claims on October 2, 1917, and have since been duly maintained as such.

§ 194.6 *Permits and leases for lands disposed of with reservation of potassium.* Where lands included in a permit or lease have been disposed of with reservation of potassium deposits, a permittee or lessee must make full compliance with the law under which such reservation was made. See the acts of July 17, 1914 (38 Stat. 509; 30 U. S. C. 121–123); December 29, 1916 (39 Stat. 862; 43 U. S. C. 291–301); June 17, 1949 (63 Stat. 201); June 21, 1949 (63 Stat. 215; 30 U. S. C. 54), and August 13, 1954 (68 Stat. 708), and other laws authorizing such reservations.

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[1] The land office for North and South Dakota is at Billings, Montana; for Nebraska and Kansas, at Cheyenne, Wyoming; and for Oklahoma, at Santa Fe, New Mexico.

§ 194.7 *Requirements when lands are within a withdrawal.* Where any part of the lands embraced in an application for potassium permit or lease is within a withdrawal which does not preclude disposition of the potassium deposits, the head of the Government agency having control will be called upon for a report as to whether there is any objection to the granting of a potassium permit or lease. Where he recommends that a special stipulation be required to protect the interests of the United States, an appropriate stipulation may be included in the lease or permit.

POTASSIUM PROSPECTING PERMITS

§ 194.8 *Application for permit.* An application for a permit must be filed in duplicate in the appropriate land office. A filing fee of $10, which will be retained as a service charge in any event, must accompany the application. No specific form of application is required, but the application should include the information and evidence called for in §§ 194.4 and 194.17 (a) (1) and (2).

§ 194.9 *Rights conferred.* Two-year permits issued on Form 4–128[2] grant the permittee the exclusive right to prospect and explore the lands described therein to determine the existence of, or workability of, the potassium deposits. Only such material may be removed from the land as is necessary to experimental work or the demonstration of the existence of such deposits in commercial quantities.

§ 194.10 *Permit bond.* Prior to the issuance of a permit for lands entered or patented with a reservation of the potassium deposits to the United States, or lands within a reclamation project, the applicant must furnish an approved corporate surety bond of at least $1,000 (Form 4–1130) or a personal bond in similar amount (Form 4–1131) secured by negotiable Federal securities in the amount of the bond. The right is reserved to require the applicant, in any case where deemed necessary, to furnish a permit bond.

§ 194.11 *Extension of permits.* Potassium permits may be extended for a single period of two years if the permittee has drilled at least one adequate test well on the permit area or performed other comparable prospecting prescribed in the permit during the two-year period for which the permit was issued. This requirement may be waived, in the discretion of the Secretary, upon a satisfactory showing that the failure of permittee was directly attributable to the shortage of equipment or labor essential to the prescribed prospecting. The showing should consist of copies of timely correspondence or other evidence demonstrating the unsuccessful efforts to obtain the material or labor. The application for extension must be filed in duplicate in the appropriate land office within the period beginning 90 days prior to the date of expiration of the permit. Upon failure of permittee to file such an application within the specified period, the permit will expire without notice to the permittee, and the lands will be subject to new applications for potassium permits.

§ 194.12 *Cancelled permits.* Upon cancellation of a potassium permit for any reason, the land will not be open to potassium permit applications until the cancellation is noted on the records of the land office.

§ 194.13 *Reward for discovery.* (a) A permittee who discovers valuable potassium deposits in the land before the permit expires is entitled to a preference right lease of all or part of the lands in the permit, in a reasonably compact form as provided in § 194.3. An application for a preference right lease must be filed in the appropriate land office not later than 30 days after the permit expires. The application must describe the lands desired, show any change in the information contained in the application for permit, specify fully the extent and mode of occurrence of the deposits as disclosed by the prospecting work, and show that valuable potassium deposits were discovered before the permit expired. The application should be accompanied by the first year's lease rental at the rate of 25 cents per acre or fraction thereof. The lease will be on Form 4–126 and will be dated the first day of the month following the filing of the application unless applicant requests that it be dated the first day of the month of filing. If the permit expires and the application for lease is finally rejected, royalty for the deposits mined will be charged at the permit rate.

(b) If the lands are unsurveyed, the permittee, prior to the issuance of a lease, will be required to deposit with the appropriate State Supervisor the estimated cost of making a survey of the lands as officially determined by the Bureau of Land Management. This survey will be an extension of the public land surveys over the lands applied for, and the lands to be included in the lease will be conformed to the subdivision of such survey.

POTASSIUM LEASES

§ 194.14 *Form of lease.* Leases shall be issued on Form 4–126.

§ 194.15 *Lease bond.* A compliance bond, in no event less than $5,000, with approved corporate surety (Form 4–1113) or the lessee's personal bond (Form 4–1114), will be required prior to the issuance of a lease. Personal bonds must be secured by negotiable Federal securities in the amount of the bond.

§ 194.16 *Minimum production.* Leases will require the payment of a royalty on a minimum annual production beginning with the sixth full calendar lease year, unless operations are interrupted by strikes, the elements, or casualties not attributable to the lessee, or unless, on application and showing made, lease operations are suspended by the Department of the Interior for the reasons specified in section 39 of the Mineral Leasing Act[3] (30 U. S. C. 209).

§ 194.17 *Application for lease by competitive bidding.*[4] (a) An application for a lease must be filed in duplicate in the appropriate land office. A filing fee of $10, which will be retained as a service charge in any event, must accompany the application. No specific form is required, but the application should include the following:

(1) The applicant's name and address.

(2) If the requested lands are surveyed, they should be described by legal subdivisions, showing meridian, State, township, range, and section; if not surveyed, by metes and bounds connected by courses and distance with some corner of the public land survey. When possible, the approximate legal subdivision of unsurveyed lands should be stated.

(3) Evidence that the land is valuable for its potassium content, with a statement as to the character, extent and mode of occurrence of the potassium deposits.

(b) The application must be signed by applicant, or by his attorney-in-fact supported by the power of attorney.

(c) If it be found that the area applied for is not available for leasing, the applicant will be so informed.

§ 194.18 *Notice of lease offer.* The advertised notice of the lease offer will state the place and time of sale, whether the sale will be at public auction or by sealed bids, the description of the land and the place where a detailed statement of the terms and conditions of the lease offer may be obtained. This notice will be published at government expense, once a week for four consecutive weeks or for such other period as may be determined, in a newspaper of general circulation in the county in which the lands or deposits are situated. A copy of the advertised notice will be posted in the appropriate land office during the period of publication. The detailed statement will set forth the terms and conditions of the sale, including rental, royalty, and minimum production, the manner in which bids may be submitted, and a statement that the government reserves the right to reject any and all bids. The commission of any act of intimidation of bidders, or the combination of bidders to hinder or prevent bidding, is unlawful. See 18 U. S. C. 1860.

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[2] A copy of this, as well as of every other form mentioned in this part, may be obtained from any land office or from the Director, Bureau of Land Management, Washington 25, D. C. Copies of Forms 4–126 and 4–128 were filed with the Federal Register Division as part of the original document.

[3] See showing required under § 191.26 of this title, as amended.

[4] Potash lands and deposits in or adjacent to Searles Lake, California, are subject only to lease by competitive bidding.

§ 194.19 *Bid deposits.* The successful bidder at a sale by public auction [illegible] deposit with the manager of the [illegible] office, or the officer conducting the sale, on the day of the sale, and each bidder at a sale by sealed bids must submit with his bid, certified check, cashier's check, bank draft, money order or cash for one-fifth of the amount of the bid.

§ 194.20 *Award of lease.* Upon receipt of the high bid at, and at the close of, an oral auction, or the opening of the sealed bids, the manager, subject to his right to reject any and all bids, will award the lease to the successful bidder, who will be notified accordingly. Four copies of the lease will be sent to the successful bidder, who will be required to execute them within 30 days from receipt thereof, pay the balance of the bonus bid, the first year's rental, file a bond as required by § 194.15, and furnish evidence of qualifications as required by § 194.4. If a bidder, after being awarded a lease, fails to execute it or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under the Mineral Leasing Act.

§ 194.21 *Readjustment of terms and conditions at end of twenty-year periods.* The terms and conditions of a lease are subject to readjustment at the end of each twenty-year period succeeding the date of the lease, unless otherwise provided by law at the time of the expiration of such periods. The lessee will be notified whenever feasible, before the ex[illegible]tion of each such twenty-year period, [illegible] he proposed readjustment of terms [illegible] hat no readjustment is to be made. Unless the lessee files objection to the proposed terms, or a relinquishment of the lease within 30 days after receipt of the notice, he will be deemed to have agreed to such terms.

§ 194.22 *Relinquishment of lease.* Upon a satisfactory showing that the public interest will not be impaired, the lessee may surrender the entire lease or any legal subdivision thereof. A relinquishment must be filed in duplicate in the appropriate land office. Upon its acceptance it shall be effective as of the date it is filed, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the leased lands in accordance with the regulations and terms of the lease.

§ 194.23 *Cancellation of lease.* If the lessee fails to comply with the general regulations in force at the date of the lease, or at the effective date of any readjustment of the terms and conditions thereof under section 194.21, or defaults with respect to any of the terms, covenants, or stipulations of the lease, and such failure or default continues for 30 days after service of written notice thereof by the lessor, then the lessor may bring appropriate court proceedings to [illegible]eit and cancel the lease as provided [illegible]ction 31 of the Mineral Leasing Act ([illegible] U. S. C. 188). A waiver of any particular cause of forfeiture shall not prevent the cancellation and forfeiture of the lease for any other cause, or for the same cause occurring at any other time.

TRANSFERS OF PERMITS AND LEASES

§ 194.24 *Transfers, including subleases.* (a) Permits and leases may be transferred in whole or in part. The approval of a transfer of part of the lands in a permit or lease will create a new permit or lease for the transferred portion. A discovery either on the retained or the assigned portion will not inure to the benefit of the other, nor will approval of a transfer extend the life of the permit or the readjustment periods of the lease. Transfers, whether by direct assignments, operating agreements, subleases, working or royalty interests, or otherwise, must be filed for approval in duplicate at the land office within 90 days after execution. Evidence of the qualifications of the assignee or transferee to hold the permit or lease, as required by § 194.4, must be submitted simultaneously. Before a transfer of a permit or lease will be approved, the consent of the surety to the substitution of the transferee as principal, or a new bond with the transferee as principal, must be submitted if the original permit or lease required the maintenance of a bond. If the transfer is for part of the land only, it must be for a legal subdivision and (1) the consent of the surety to the transfer and its agreement to remain bound as to the interest retained by the permittee or lessee must be submitted, as well as (2) a new bond with the transferee as principal covering the portion of the lands transferred. The account under the permit or lease must be in good standing before approval of transfer will be given. A transfer will take effect the first day of the month following its approval, or if the transferee requests, the first day of the month of the approval.

(b) An application for approval of any instrument transferring a lease or permit, or interest therein, must be accompanied by a service fee of $10. An application not accompanied by such a fee will not be accepted. The fee will not be returned even though the application is later withdrawn or rejected.

§ 194.25 *Overriding royalties.* (a) An overriding royalty interest may be created by assignment or otherwise: *Provided, however,* That if the total of the overriding royalty interest at any time exceeds one percent of the gross value of the output at the point of shipment to market, it shall be subject to reduction or suspension by the Secretary to a total of not less than one percent of such gross value, whenever, in the interest of conservation, it appears necessary to do so in order (1) to prevent premature abandonment, or (2) to make possible the economic mining of marginal or low grade deposits. Where there is more than one overriding royalty interest, any such suspension or reduction shall be applied to the respective interests in the manner agreed upon by the holders thereof or, in the absence of such agreement, in the inverse order of the dates of creation of such interests.

(b) Any assignment, sublease, or other transfer or agreement which creates an overriding royalty interest, will not be approved unless the owner of that interest files his agreement in writing that such interest is subject to suspension or reduction as provided in paragraph (a) of this section. No overriding royalties shall be paid at a rate in excess of the rate to which they have been so reduced until otherwise authorized by the Secretary.

NOTE: The record keeping or reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

DOUGLAS MCKAY,
Secretary of the Interior.

DECEMBER 2, 1954.

[F. R. Doc. 54-9671; Filed, Dec. 23, 1954; 8:45 a. m.]

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December 24, 1954

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LO

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

5.02

BUREAU OF LAND MANAGEMENT
LAND OFFICE
BILLINGS, MONTANA
DEC 1 3 1954

December 7, 1954

[redacted]dum

To: State Supervisors
Land Office Managers

From: Assistant to the Director

Subject: Revision of Oil and Gas Regulations

Attached for your information are several copies of a revision of Parts 191 and 192 of Title 43 of the Code of Federal Regulations which the Secretary has approved today.

Now that these regulations are approved we plan to promptly send to the appropriate Land Offices for final action the pending competitive oil and gas lease cases and other related matters. Generally these cases will be shipped in filing cabinets and you will be advised as to the exact shipment date.

Earl J. Thomas
Assistant to the Director

Copy to each AA

Attachments

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1892]

PART 195—SODIUM PERMITS AND LEASES: USE PERMITS

REVISION OF PART

This part is hereby completely revised as follows, effective 60 days after date of issuance hereof by the Secretary of the Interior:

GENERAL

Sec.
195.1 Statutory authority.
195.2 Definitions.
195.3 Area and limitation on holdings.
195.4 Qualifications of applicant.
195.5 Protection of pre-existing mining claims.
195.6 Permits and leases for lands disposed of with reservation of sodium.
195.7 Requirements when lands are within a withdrawal.

SODIUM PROSPECTING PERMITS

195.8 Application for permit.
195.9 Rights conferred.
195.10 Permit bond.
195.11 Cancelled permits.
195.12 Reward for discovery.
195.13 Expiration of permit.

SODIUM LEASES

195.14 Form of lease.
195.15 Lease bond.
195.16 Minimum production.
195.17 Application for lease by competitive bidding.
95.18 Notice of lease offer.
95.19 Bid deposits.
5.20 Award of lease.
195.21 Renewal leases.
195.22 Relinquishment of lease.
195.23 Cancellation of lease.

TRANSFERS OF PERMITS AND LEASES

195.24 Transfers, including subleases.
195.25 Overriding royalties.

USE PERMITS

195.26 Use permits for additional lands.

AUTHORITY: §§ 195.1 to 195.26 issued under sec. 32, 41 Stat. 450; 30 U. S. C. 189. Interpret or apply secs. 23–25, 41 Stat. 447, 45 Stat. 1019; 30 U. S. C. 261–263.

GENERAL

§ 195.1 *Statutory authority.* Sections 23 through 25 of the Act of February 25, 1920 (41 Stat. 447; 30 U. S. C. Sec. 261–3) hereinafter called the Mineral Leasing Act, authorize the Secretary of the Interior to:

(a) Issue permits to prospect for deposits of chlorides, sulphates, carbonates, borates, silicates, or nitrates of sodium in public lands or in public lands disposed of with a reservation of such deposits to the United States;

(b) Lease such lands containing valuable deposits of such substances, and

(c) Grant to a permittee or lessee of such lands the right to use unoccupied nonmineral public land not exceeding forty acres in area for camp sites, refining works, and other purposes connected with and necessary to the proper development and use of the deposits covered by the permit or lease.

§ 195.2 *Definitions.* The following terms, as used in this part, or in any lease or permit approved under the regulations in this part, shall have the meanings here given:

(a) *Secretary.* The Secretary of the Interior or any person duly authorized to exercise the powers vested in that officer.

(b) *Director.* The Director of the Bureau of Land Management or any person duly authorized to exercise the powers vested in that officer.

(c) *Land office, or appropriate land office.* The land office of the Bureau of Land Management for the State part of State or Territory in which the lands covered by a permit, lease, or application therefor, are situated; and as to States for which there is no land office, the Bureau of Land Management, Washington 25, D. C.[1]

(d) *Manager or Land Office Manager.* The manager of the appropriate land office as defined in paragraph (c) of this section, and, as to the Washington, D. C. office, the Supervisor, Eastern States Office, Bureau of Land Management.

(e) *Mining Supervisor.* The Regional Mining Supervisor of the Geological Survey for the region in which the lands under permit or lease are situated.

§ 195.3 *Area and limitation on holdings.* Except where the rule of approximation applies, a lease or permit may not include over 2,560 acres in compact form entirely within a six-mile square. No person, association or corporation may hold at any one time more than 5,120 acres in any one State, except as hereinafter stated, whether directly through ownership of sodium permits and leases, or of interests in them, or indirectly through association membership or stock ownership. Where necessary in order to secure the economic mining of leasable sodium compounds, a person, association, or corporation may be permitted to hold up to 15,360 acres in any one State.

§ 195.4 *Qualifications of applicant.* (a) As used in this section, "applicant" means an applicant for a permit under § 195.8, for a lease under § 195.12, the successful bidder to whom a lease is awarded under § 195.20, or an assignee or transferee under § 195.24.

(b) Permits and leases may be issued to citizens of the United States, associations of citizens, and corporations organized under the laws of the United States or of any State or Territory thereof.

(c) All applicants must file in the appropriate land office statements and evidence as follows (unless previously filed, in which event a reference by serial number to the record and the land office in which filed, together with a statement as to any amendments, will be accepted):

(1) As to citizenship, whether native born or naturalized.

(2) If applicant is an association (including a partnership), it must submit a certified copy of the articles of association and the same showing as to the citizenship and holdings of its members as required of an individual.

(3) A corporation must submit a statement showing:

(i) The State in which it is incorporated.

(ii) That it is authorized to hold leases or permits for sodium deposits, and that the person executing an instrument on behalf of the corporation is authorized to act in such matters.

(iii) The percentage of voting stock and of all the stock owned by aliens for those having adresses outside of the United States. When the stock owned by aliens is over 10 percent, additional information may be required.

(iv) The name, address, citizenship, and acreage holdings of any stockholder owning or controlling 20 percent or more of the stock of any class of the corporation.

(4) That holdings do not exceed the acreage limitations specified in § 195.3.

§ 195.5 *Protection of pre-existing mining claims.* Mining claims for deposits described in § 195.1 (a) which were valid on February 25, 1920, or on lands in San Bernardino County, California, on December 11, 1928, if duly maintained, may be patented under the law under which they were initiated. Otherwise, such deposits may be secured only under the Mineral Leasing Act.

§ 195.6 *Permits and leases for lands disposed of with reservation of sodium.* Where lands included in a permit or lease have been disposed of with reservation of sodium deposits, a permittee or lessee must make full compliance with the law under which such reservation was made. See the Acts of July 17, 1914 (38 Stat. 509; 30 U. S. C. 121–123); December 29, 1916 (39 Stat. 862; 43 U. S. C. 291–301); June 17, 1949 (63 Stat. 201); June 21, 1949 (63 Stat. 215; 30 U. S. C. 54) and August 13, 1954 (68 Stat. 708), and other laws authorizing such reservations.

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[1] The land office for North and South Dakota is at Billings, Montana; for Nebraska and Kansas, at Cheyenne, Wyoming; and for Oklahoma, at Santa Fe, New Mexico.

Published in 19 F. R. December 24, 1954

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ESO 10
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Mrs. Mann GS Room 3228 20

§ 195.7 *Requirements when lands are within a withdrawal.* Where any part of the lands embraced in an application for sodium permit or lease is within a withdrawal which does not preclude disposition of the sodium deposits, the head of the Government agency having control will be called upon for a report as to whether there is any objection to the granting of a sodium permit or lease. Where he recommends that a special stipulation be required to protect the interests of the United States, an appropriate stipulation may be included in the lease or permit.

SODIUM PROSPECTING PERMITS

§ 195.8 *Application for permit.* An application for a permit must be filed in duplicate in the appropriate land office. A filing fee of $10, which will be retained as a service charge in any event, must accompany the application. No specific form of application is required, but the application should include the information and evidence called for in §§ 195.4 and 195.17 (a) (1) and (2).

§ 195.9 *Rights conferred.* Two-year permits issued on Form 4–466[2] grant the permittee the exclusive right to prospect and explore the lands described therein to determine the existence of or workability of the sodium deposits. Only such material may be removed from the land as is necessary to experimental work or the demonstration of the existence of such deposits in commercial quantities.

§ 195.10 *Permit bond.* Prior to the issuance of a permit for lands entered or patented with a reservation of the sodium deposits to the United States, or lands within a reclamation project, the applicant must furnish a bond of not less than $1,000, with approved corporate surety (Form 4–1130), or his personal bond in similar amount (Form 4–1131) secured by negotiable Federal securities in the amount of the bond. The right is reserved to require the applicant, in any case where deemed necessary, to furnish a permit bond.

§ 195.11 *Cancelled permits.* Upon cancellation of a sodium permit for any reason, the land will not be open to sodium permit applications until the cancellation is noted on the records of the land office.

§ 195.12 *Reward for discovery.* (a) A permittee who discovers valuable sodium deposits in the land before the permit expires is entitled to a preference right lease of all or part of the lands in the permit, in a reasonably compact form as provided in § 195.3. An application for a preference right lease must be filed in the appropriate land office not later than 30 days after the permit expires. The application must describe the lands desired, show any change in the information contained in the application for permit, specify fully the extent and mode of occurrence of the deposits as disclosed by the prospecting work, and show that valuable sodium deposits were discovered before the permit expired. The application should be accompanied by the first year's rental at the rate of 25 cents per acre or fraction thereof. The lease will be on Form 4–1134, and will be dated the first day of the month following the filing of the application unless applicant requests that it be dated the first day of the month of filing. If the permit expires and the application for lease is finally rejected, royalty for the deposits mined will be charged at the permit rate.

(b) If the lands are unsurveyed, the permittee, prior to the issuance of a lease, will be required to deposit with the appropriate State Supervisor the estimated cost of making a survey of the lands as officially determined by the Bureau of Land Management. This survey will be an extension of the public land surveys over the lands applied for, and the lands to be included in the lease will be conformed to the subdivisions of such survey.

§ 195.13 *Expiration of permit.* Unless a lease application is filed pursuant to § 195.12, the permit will expire at the end of its period without notice to permittee. No extension of the term will be granted.

SODIUM LEASES

§ 195.14 *Form of lease.* Leases shall be issued on Form 4–1134.

§ 195.15 *Lease bond.* A compliance bond, in no event less than $5,000, with approved corporate surety (Form 4–1113), or the lessee's personal bond in similar amount (Form 4–1114), will be required prior to the issuance of a lease. Personal bonds must be secured by negotiable Federal securities in the amount of the bond.

§ 195.16 *Minimum production.* Leases will require the payment of a royalty on a minimum annual production beginning with the sixth full calendar lease year, unless operations are interrupted by strikes, the elements, or casualties not attributable to the lessee, or unless, on application and showing made, lease operations are suspended by the Department of the Interior for the reasons specified in section 39 of the Mineral Leasing Act[3] (30 U. S. C. 209).

§ 195.17 *Application for lease by competitive bidding.* (a) An application for a lease must be filed in duplicate in the appropriate land office. A filing fee of $10, which will be retained as a service charge in any event, must accompany the application. No specific form is required, but the application should include the following:

(1) The applicant's name and address.

(2) If the requested lands are surveyed, they should be described by legal subdivisions, showing meridian, state, township, range, and section; if not surveyed, by metes and bounds connected by courses and distance with some corner of the public land survey. When possible, the approximate legal subdivisions of unsurveyed lands should be stated.

(3) Evidence that the land is valuable for its sodium content, with a statement as to the character, extent and mode of occurrence of the sodium deposits.

(b) The application must be signed by applicant, or by his attorney in fact, supported by the power of attorney.

(c) If it be found that the area applied for is not available for leasing, the applicant will be so informed.

§ 195.18 *Notice of lease offer.* The advertised notice of the lease offer will state the place and time of sale, whether the sale will be at public auction or by sealed bids, the description of the land and the place where a detailed statement of the terms and conditions of the lease offer may be obtained. This notice will be published at government expense, once a week for four consecutive weeks or for such period as may be determined, in a newspaper of general circulation in the county in which the lands or deposits are situated. A copy of the advertised notice will be posted in the appropriate land office during the period of publication. The detailed statement will set forth the terms and conditions of the sale, including rental, royalty, and minimum production and a statement that the government reserves the right to reject any and all bids. The commission of any act of intimidation of bidders or the combination of bidders to hinder or prevent bidding is unlawful. See 18 U. S. C. 1860.

§ 195.19 *Bid deposits.* The successful bidder at a sale by public auction must deposit with the manager of the land office, or the officer conducting the sale, on the date of the sale, and each bidder at a sale by sealed bids, must submit with his bid, certified check, cashier's check, bank draft, money order, or cash for one-fifth of the amount of the bid.

§ 195.20 *Award of lease.* Upon receipt of the high bid at, and at the close of, an oral auction, or the opening of the sealed bids, the manager, subject to his right to reject any and all bids, will award the lease to the successful bidder, who will be notified accordingly. Four copies of the lease will be sent to the successful bidder, who will be required to execute them within 30 days from receipt thereof, pay the balance of the bonus bid, the first year's rental, file a bond as required by § 195.15, and furnish evidence of qualifications as required by § 195.4. If a bidder, after being awarded a lease, fails to execute it or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under the Mineral Leasing Act.

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[2] A copy of this, as well as of every other form mentioned in this part, may be obtained from any land office or from the Director, Bureau of Land Management, Washington 25, D. C. Copies of Forms 4–466, 4–1134 and 4–1135 were filed with the Federal Register Division as part of the original document.

[3] See showing required under § 191.26 of this title, as amended.

§ 195.21 *Renewal leases.* An application for a renewal lease must be filed in the appropriate land office not less than 30 days nor more than 90 days before the lease term expires. Thereafter, the lessee will be notified of the terms and conditions to be prescribed in the renewal lease. Unless the lessee files written objections to the proposed terms, or files a relinquishment of the lease within 30 days after receipt of such notice, he will be deemed to have agreed to such terms and to the renewal of the lease. Prior to the issuance of a renewal lease, the lessee will be required to submit a new bond as prescribed in § 195.15.

§ 195.22 *Relinquishment of lease.* Upon a satisfactory showing that the public interest will not be impaired, the lessee may surrender the entire lease or any legal subdivision thereof. A relinquishment must be filed in duplicate in the appropriate land office. Upon its acceptance it shall be effective as of the date it is filed, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the leased lands in accordance with the regulations and terms of the lease.

§ 195.23 *Cancellation of lease.* If the lessee fails to comply with the general regulations in force at the date of the lease, or defaults with respect to any of the terms, covenants, or stipulations of the lease, and such failure or default continues for 30 days after service of written notice thereof by the lessor, then the lessor may bring appropriate court proceedings to forfeit and cancel the lease as provided in section 31 of the Act (30 U. S. C. 188). A waiver of any particular cause for forfeiture shall not prevent the cancellation and forfeiture of the lease for any other cause, or for the same cause occurring at any other time.

TRANSFER OF PERMITS AND LEASES

§ 195.24 *Transfers, including subleases.* (a) Permits and leases may be transferred in whole or in part. The approval of a transfer of part of the lands in a permit or lease will create a new permit or lease for the transferred portion. A discovery either on the retained or the assigned portion will not inure to the benefit of the other, nor will approval of a transfer extend the life of the permit or the renewal periods of the lease. Transfers, whether by direct assignments, operating agreements, subleases, working or royalty interests, or otherwise, must be filed for approval in duplicate at the appropriate land office within 90 days after execution. Evidence of the qualifications of the assignee or transferee to hold the permit or lease, as required by § 195.4, must be submitted simultaneously. Before a transfer of a permit or lease will be approved, the consent of the surety to the substitution of the transferee as principal, or a new bond with the transferee as principal, must be submitted if the original permit or lease required the maintenance of a bond. If the transfer is for part of the land only it must be for a legal subdivision and (1) the consent of the surety to the transfer and its agreement to remain bound as to the interest retained by the permittee or lessee must be submitted, as well as (2) a new bond with the transferee as principal covering the portion of the lands transferred. The account under the permit or lease must be in good standing before approval of transfer will be given. A transfer will take effect the first day of the month following its approval, or if the transferee requests, the first day of the month of the approval.

(b) An application for approval of any instrument transferring a lease or permit or interest therein must be accompanied by a service fee of $10. An application not accompanied by such a fee will not be accepted. The fee will not be returned even though the application is later withdrawn or rejected.

§ 195.25 *Overriding royalties.* (a) An overriding royalty interest may be created by assignment or otherwise: *Provided, however,* That if the total of the overriding royalty interests at any time exceeds one percent of the gross value of the output at the point of shipment to market, they shall be subject to reduction or suspension by the Secretary to a total of not less than one percent of such gross value, whenever, in the interest of conservation, it appears necessary to do so in order (1) to prevent premature abandonment, or (2) to make possible the economic mining of marginal or low grade deposits. Where there is more than one overriding royalty interest, any such suspension or reduction shall be applied to the respective interests in the manner agreed upon by the holders thereof or, in the absence of such agreement, in the inverse order of the dates of creation of such interests.

(b) Any assignment, sublease, or other transfer or agreement which creates an overriding royalty interest will not be approved unless the owner of that interest files his agreement in writing that such interest is subject to suspension or reduction as provided in paragraph (a) of this section. No overriding royalties shall be paid at a rate in excess of the rate to which they have been so reduced until otherwise authorized by the Secretary.

USE PERMITS

§ 195.26 *Use permits for additional lands.* (a) A permittee or lessee may be granted a right to use, during the life of the permit and lease, the surface of not exceeding 40 acres of unoccupied nonmineral public land not included within the boundaries of a national forest for camp sites, refining works, and other purposes connected with and necessary to the proper development and use of the deposits covered by the permit or lease. The annual charge for such use will be established by the officer issuing the permit at the reasonable rental value of the lands but at not less than 25 cents an acre or fraction thereof.

(b) Applications for permits to use additional land shall be filed in the appropriate land office. Such applications must state why the additional land is necessary, describe the land in accordance with § 195.17 (a) (2), and state whether it is unoccupied and nonmineral. The application must also contain an agreement to pay the annual charge prescribed in the permit. Use permits will be issued on Form 4-1135 and dated as of the first day of the month after its issuance unless the applicant requests that it be dated the first day of the month of issuance.

NOTE: The record keeping or reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

DOUGLAS MCKAY,
Secretary of the Interior.

DECEMBER 2, 1954.

[F. R. Doc. 54-9672; Filed, Dec. 23, 1954; 8:45 a. m.]

INT.-DUP. SEC., WASH., D.C. 73151

OGH
Gaw
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Shenk
1-27-55
G Gray
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Replaced by
Circular 1921
(4/58)

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1893]

PART 259—DISPOSAL OF MATERIALS

STATUTORY AUTHORITY

Section 259.1 (a) is amended to read:

§ 259.1 *Statutory authority.* (a) The act of July 31, 1947 (61 Stat. 681; 43 U. S. C. 1185) authorizes the disposal of materials, including but not limited to sand, stone, gravel, yucca, manzanita, mesquite, cactus, common clay, and timber or other forest products, on public lands of the United States, if the disposal is not otherwise expressly authorized by laws of the United States, including the United States mining laws, and is not expressly prohibited by laws of the United States, nor detrimental to the public interests. The act of August 31, 1950 (64 Stat. 572; 43 U. S. C. sup. 1188), added to the act of July 31, 1947, a section 4 authorizing the disposal of sand, stone, gravel, and vegetative materials located below high-water mark of navigable waters of the Territory of Alaska. The act of April 15, 1954 (68 Stat. 53) provides that for the purpose of aiding in the development of building materials essential to the growth of Alaska, the Secretary of the Interior is authorized, in his discretion, for a period of fifteen years from the date of approval of that act and pursuant to the provisions of the act of July 31, 1947 (61 Stat. 681), as amended, to permit the removal of deposits of siliceous volcanic ash, commonly known as pumicite, from such areas as he may designate along the shores of Shelikof Strait in Katmai National Monument, Alaska.[1]

(b) The provisions of this act do not apply to lands in any national forest, national park or national monument, except as stated in paragraph (a) of this section, or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive Order for the use of Indians.

(Sec. 1, 61 Stat. 681; 43 U. S. C. 1185)

DOUGLAS MCKAY,
Secretary of the Interior.

DECEMBER 3, 1954.

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1894]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES AND LICENSES

PART 192—OIL AND GAS LEASES—GENERAL PROVISIONS

MISCELLANEOUS AMENDMENTS

1. Section 191.12 is amended to read as follows:

§ 191.12 *Payment of rentals.* Unless otherwise directed by the Secretary,[1] rentals and royalties under all leases and permits issued under the act shall be paid to the Manager of the land office in the State in which the lands are located or, if there is no land office in such State, to the Director, Bureau of Land Management, Washington 25, D. C., except that for lands in the following States, payments must be made in the land office named: North or South Dakota, the land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma at Santa Fe, New Mexico. All remittances to Bureau of Land Management offices shall be made payable to the Bureau of Land Management.

2. Section 191.26 is amended to read as follows:

§ 191.26 *Suspension of operations and production.* (a) Applications by lessees for relief from the producing requirements or from all operating and producing requirements of mineral leases shall be filed in triplicate in the office of the regional oil and gas supervisor for oil and gas leases, and in the office of the regional mining supervisor for all other leases.[2] As to oil and gas leases, no suspension of operations and production will be granted on any lease in the absence of a well capable of production on the leasehold, except where the Secretary directs a suspension in the interest of conservation. Complete information must be furnished showing the necessity for such relief.

(b) The term of any lease will be extended by adding thereto any period of suspension of all operations and production during such term pursuant to any direction or assent of the Secretary.

(c) A suspension shall take effect as of the time specified in the direction or assent of the Secretary. Rental and minimum royalty payments will be suspended during any period of suspension of all operations and production directed or assented to by the Secretary, beginning with the first day of the lease month on which the suspension of operations and production becomes effective or, if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension of rental and minimum royalty payments shall end on the first day of the lease month in which operations or production is resumed. Where rentals are creditable against royalties and have been paid in advance, proper credit will be allowed on the next rental or royalty due under the lease.

(d) No lease shall be deemed to expire by reason of a suspension of either operations or production only, pursuant to any direction or assent of the Secretary.

(e) If there is a well capable of producing on the leased premises and all operations and production are suspended pursuant to any direction or assent of the Secretary, the commencement of drilling operations only will be regarded as terminating the suspension as to operations but not as to production, and as terminating the period of suspension to be added to the term of the lease as provided in paragraph (b) of this section and the period of suspension of rental and minimum royalty payments as provided in paragraph (c) of this section. However, as provided in paragraph (d) of this section, the term of the lease will not be deemed to expire so long as the suspension of operations or production remains in effect.

(f) The minimum annual production requirements of a lease issued under the act for coal, phosphate, potassium, sodium, oil shale or sulphur shall be proportionately reduced for that portion of a lease year for which suspension of operations and production is directed or granted by the Secretary of the Interior in the interest of conservation.

(Sec. 32, 41 Stat. 450, sec. 1, 44 Stat. 301; 30 U. S. C. 189, 271)

3. Section 192.3 is amended to read as follows:

§ 192.3 *Acreage limitation on leases.* (a) No person, association, or corporation, except as in the act provided, may hold more than 46,080 acres in any one State, or more than 100,000 acres in the Territory of Alaska, whether directly through the ownership of leases or interests in leases, or indirectly as a member of an association or associations, or as a stockholder of a corporation, or corporations, holding leases or interests therein or both. All leases committed to any unit or cooperative plan approved or prescribed by the Secretary of the Interior shall not be included in computing accountable acreage under section 27 of the act. All leases operated under an operating, drilling, or development contract approved by the Secretary of the Interior pursuant to section 17 (b) of the act, and interests thereunder, other than communitization agreements, and all leases issued under sections 18 and 19 of the act shall be excepted in determining the lessees' and the operators' acreage holdings or control under the provisions of any section of this act.

(b) In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease shall be such party's proportionate part of the total lease acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part

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[1] Under Secretary's Order No. 2505, all rentals and royalties on productive oil and gas leases, and on all leases in productive, unitized areas, and payments on easements for directional drilling and on storage agreements are to be paid to the Regional Oil and Gas Supervisor of the United States Geological Survey. All remittances to Geological Survey offices shall be made payable to the Treasurer of the United States. (Rentals and royalties on productive mining leases are to be paid to the Regional Mining Supervisor.)

[2] By Departmental Order No. 2699 and Geological Survey Order No. 218 of August 11, 1952, the regional oil and gas supervisors and the regional mining supervisors are authorized to act on applications for suspension of operations or production or both filed pursuant to this section and to terminate suspensions of this kind which have been or may be granted.

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of the corporation's or association's accountable acreage. Parties owning a royalty or other interest determined by or payable out of a percentage of production from a lease will be charged with a similar percentage of the total lease acreage.

(c) No lease will be issued and no transfer will be approved until it has been shown pursuant to the requirements of § 192.42 (e) (4) that the lessee or transferee is entitled to hold the acreage. Any party found to hold or control accountable acreage computed in accordance with the principles above set forth in excess of the prescribed limitations shall be given thirty days within which to file proof of the reduction of his holdings or control so as to conform with the prescribed limitation.

4. Section 192.4 is amended to read as follows:

§ 192.4 *Acreage limitations on options.* (a) Acreage held under a nonrenewable option, valid only for three years or such longer period as may be authorized by the Secretary, shall not be chargeable under § 192.3, but no optionee may hold options at any one time for more than 200,000 acres in any one State, or in the Territory of Alaska.

(b) No such option shall be taken for more than three years without the prior approval of the Secretary of the Interior, except that an option hereafter taken on a lease application or offer may be for the period of time until issuance of the lease and three years thereafter. Where it is sought to obtain options for periods in excess of those provided in the preceding sentence, an application should be filed with the Director, Bureau of Land Management, accompanied by a complete showing as to the special or unusual circumstances which are believed to justify approval of the application by the Secretary.

(c) Within the meaning of this section, options may be taken only on lands embraced in leases and offers or applications for leases and the acreage included in any such option taken upon an application or offer for a lease shall be chargeable from and after the date of such option.

(d) It shall be permissible for any such option to provide that where all or any part of the land covered thereby is included in a cooperative or unit plan (as defined in § 192.20) duly executed by the parties and submitted to the Secretary for final approval prior to the expiration of the three-year option period, then, as to that part of the land covered by said option which is included in said cooperative or unit plan, such option shall not expire until a date 30 days after the date of final approval or disapproval by the Secretary of that cooperative or unit plan.

(e) Each optionee must file with the Director, Bureau of Land Management, within 90 days after December 31 and June 30 of each year, a statement showing as of the prior December 31 and June 30, respectively, (1) name of optioner and serial number of lease, application or offer for lease subject to the option (2) date and expiration date of each option, (3) number of acres covered by each option, and (4) aggregate number of options held in each State and total acreage thereof.

(f) If the statement shows or it is otherwise ascertained that the optionee holds options in excess of the prescribed limitation, he will be given 30 days within which to file proof of reduction of his option holdings to the limitations prescribed by the act.

5. Section 192.8 is amended to read as follows:

§ 192.8 *Protection of leased lands from drainage.* (a) Where land in any lease is being drained of its oil or gas content by a well either on a Federal lease issued at a lower rate of royalty or on land not the property of the United States, the lessee must drill and produce all wells necessary to protect the leased lands from drainage. In lieu of drilling such wells, the lessee may, with the consent of the Director of the Geological Survey, pay compensatory royalty in the amount determined in accordance with 30 CFR 221.21.

(b) The payment of compensatory royalty under this section or § 192.7 shall extend the primary or extended term of any lease for the period during which such compensatory royalty is paid, and for a period of one year from the discontinuance of such payment, and for so long thereafter as oil or gas is produced in paying quantities.

6. Section 192.42 is amended to read as follows:

§ 192.42 *Offer to lease, and issuance of lease.* (a) To obtain a non-competitive lease an offer to accept such lease must be made on Form 4–1158, "Offer to lease and lease for oil and gas," or on unofficial copies of that form in current use: *Provided,* That the copies are exact reproductions of one page of both sides of the official approved one page form and are without additions, omissions or other changes or advertising. Form 4–1158 or a valid reproduction of the official form will also constitute the lease when signed by the Manager of the Land Office.

(b) Five copies of Form 4–1158, or valid reproduction thereof, for each offer to lease shall be filed in the proper land office, or for land or deposits in States for which there are no land offices, with the Director of the Bureau of Land Management, Washington 25, D. C.[3] If less than five copies are filed, the offer will not be rejected, if not otherwise subject to rejection, until 30 days from filing have elapsed and if during that period the remaining required copies are filed, the offeror's priority will date from the date of the first filing. If the additional copies are not filed within the 30-day period the offer will be rejected and returned and will afford no priority to the offeror. Should the additional copies be filed after the 30-day period but before the offer has been rejected, the offeror will have a priority as of the later filing date. The offer must be filed on a form in effect at the date of filing. For the purpose of this part an offer will be considered filed when it is received in the proper office during business hours.

(c) The offeror shall mark one of the copies first filed at the top with the word "original." If that is not done, the manager will so mark one copy. If there is any variation in the land descriptions among the five copies, the copy marked "original" shall govern as to the lands covered by the lease.

(d) Each offer must be filled in on a typewriter or printed plainly in ink and signed in ink by the offeror or the offeror's duly authorized attorney in fact or agent. An offer may be made by a legal guardian or trustee in his name for the benefit of a non-alien minor or minors but an offer may not be filed by a minor. Each offer must describe the lands by legal subdivision, section, township, and range, if the lands are surveyed, and if not surveyed, by a metes and bounds description connected with a corner of the public land surveys by course and distance and must cover only lands entirely within a six-mile square. Each offer must be for an area of not more than 2,560 acres except where the rule of approximation applies, and may not be for less than 640 acres except in any one of the following instances:

(1) Where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation or such a plan which has been approved as to form by the Director of the Geological Survey.

(2) Where the land is surrounded by lands not available for leasing under the act, except that where the tract was isolated as the result of a partial relinquishment of a lease, no lease offer will be received for the relinquished land other than one filed under the conditions prescribed in subparagraph (1) of this paragraph for a period of 60 days from and after the date of filing of the partial relinquishment.

(e) Each offer, when first filed, shall be accompanied by:

(1) A filing fee of $10 which will be retained as a service charge, except as provided in paragraph (g) of this section, even though the offer should be rejected or withdrawn in whole or in part.

(2) Full payment of the first year's rental based on the total acreage if known, and if not known, on the basis of 40 acres for each smallest legal subdivision.

(3) Except in a case where an officer of a corporation signs an offer on behalf of the corporation (as to which see paragraph (f) (2) of this section), evidence of the authority of the attorney in fact or agent to sign the offer and lease, if the offer is signed by such attorney or agent on behalf of the offeror; and in addition, if such offeror is an individual, a statement over the offeror's signature setting forth the offeror's citizenship and whether the offeror's direct and indirect interests in oil and gas leases, applica-

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[3] Offers for lands or mineral deposits in the following States should be filed at the land office named: North or South Dakota, land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma, at Santa Fe, New Mexico.

tions, and offers therefor, exceeds 46,080 chargeable acres in the same State, or exceeds 100,000 acres in the Territory of Alaska.

(4) If the offer is signed by an attorney in fact or agent, or if any attorney in fact or agent has been authorized to act on behalf of the offeror with respect to the offer or lease, separate statements over the signatures of the attorney in fact or agent and the offeror stating whether or not there is any agreement or understanding between them, or with any other person, either verbal or written by which the attorney in fact or agent or such other person has received, or is to receive, any interest in the lease when issued, including royalty interest or interest in an operating agreement under the lease giving full details of the agreement or understanding, if it is a verbal one; the statement must be accompanied by a copy of any such written agreement or understanding; and if such an agreement or understanding exists, the statement of the attorney in fact or agent should set forth the citizenship of the attorney in fact or the agent or other person and whether his direct and indirect interests in oil and gas leases, applications, and offers therefor exceeds 46,080 chargeable acres in the same State, or exceeds 100,000 acres in the Territory of Alaska. This requirement does not apply in cases in which the attorney in fact or agent is a member of an unincorporated association (including a partnership) or is an officer of a corporation and has an interest in the offer or the lease to be issued solely by reason of the fact that he is a member of the association or a stockholder in the corporation.

(5) If the offer is made by a guardian or trustee, a certified copy of the court order authorizing him to act as such and to fulfill in behalf of the minor or minors all obligations of the lease or arising thereunder; his statements as to the citizenship and holdings of each of the minors; and a similar statement as to his own citizenship and holdings under the leasing act, including his holdings for the benefit of other minors.

(6) If the offer is made by an association (including a partnership), it must be accompanied by a certified copy of the articles of association and the same showing as to the citizenship and holdings of its members as required of an individual.

(f) If the offeror is a corporation the offer must be accompanied by a statement showing (1) the State in which it is incorporated, (2) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters, (3) the percentage of voting stock and of all the stock owned by aliens for those having addresses outside of the United States, and (4) the names and addresses of the stockholders holding 20 percent or more of the stock of the corporation. When the stock owned by aliens is over 10 percent, additional information may be required by the Bureau before the lease is issued or production is obtained. A separate showing of citizenship and holdings of stockholders owning or controlling 20 percent or more of the stock of any class must also be furnished. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

(g) (1) Except as provided in subparagraph (2) of this paragraph, an offer will be rejected and returned to the offeror and will afford the applicant no priority if:

(i) The land description is insufficient to identify the lands or the lands are not entirely within a 6-mile square.

(ii) The total acreage exceeds 2,560 acres, except where the rule of approximation applies or is less than 640 acres or the equivalent of a section and is not within the exceptions in paragraph (d) of this section.

(iii) The full filing fee and the first year's rental do not accompany the offer, the rental payment to be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest legal subdivision.

(iv) The offer is signed by an agent in behalf of the offeror and the offer is not accompanied by a statement over the offeror's own signature with respect to holdings and citizenship and by the statements and evidence required by paragraph (e) (4) of this section.

(v) The offer is signed by a guardian or trustee in behalf of a minor and is not accompanied by the evidence required by paragraph (e) (5) of this section.

(vi) Less than five copies of the offer are filed and the copies lacking are not received in the land office before the expiration of 30 days from the date of receipt of the copies first filed.

(vii) There is noncompliance with item 5 (a) and (e) of the Special Instructions. The offeror will be given an opportunity to file a new offer within 30 days from service of the rejection, and the fee and rental payments on the old offer will be applied to the new offer if the new offer shows the serial and receipt numbers of the old offer. The advance rental will be returned unless within the 30-day period another offer is filed.

(2) An offer to lease containing any of the following deficiencies will be approved by the signing officer provided all other requirements are met:

(i) An offer deficient in the first year's rental by not more than 10 percent. The additional rental must be paid within 30 days from notice under penalty of cancellation of the lease.

(ii) An offer covering not more than 10 percent over the maximum allowable acreage of 2,560 acres. The lease will be approved for 2,560 acres in the discretion of the signing officer or so much over that amount as may be included under the rule of approximation.

(iii) An offer completed in pencil or script.

(iv) An offer on a lease form not currently in use.

(v) An offer or a form not correctly reproduced provided it contains the statement that the offeror agrees to be bound by the terms and conditions of the lease form in effect at the date of filing.

(h) An offer may not be withdrawn, either in whole or in part, unless the withdrawal is received by the land office before the lease, an amendment of the lease, Form 4–1163, or a separate lease, whichever covers the land described in the withdrawal, has been signed on behalf of the United States.

(i) The United States will indicate its acceptance of the lease offer, in whole or in part, and the issuance of the lease by the signature of the appropriate officer thereof in the space provided. An executed copy of the lease will be mailed to the offeror at the address of record.

(j) If any of the land described in item 2 of the offer is open to oil and gas filing when the offer is filed but is omitted from the lease for any reason and thereafter becomes available for leasing to the offeror, the original lease will be amended to include the omitted land unless before the issuance of the amendment to Form 4–1158 the land office receives a withdrawal of the offer as to such land or an election to receive a separate lease in lieu of an amendment. Such election shall consist of a signed statement by the offeror asking for a separate lease accompanied by a new offer on Form 4–1158 describing the remaining lands in his original offer, executed pursuant to this section. The new offer will have the same priority as the old offer. It need not be accompanied by the filing fee. The rental payment held on the original offer will be applied to the new offer. The rental and the lease term for the land added by such an amendment shall be the same as if the land had been included in the original lease when it was issued. If a separate lease is issued, it will be dated in accordance with § 192.40a.

(k) A transfer of the whole interest in all or any part of the offer may be approved as an incident to the transfer, by assignment or otherwise, of the whole interest in all or any part of the lease. A transfer of an undivided fractional interest in the whole offer may be approved as an incident to the transfer of an undivided fractional interest in the whole lease. An application for approval of a transfer of an offer must include a statement that the transferee agrees to be bound by the offer to the extent that it is transferred and must be signed by the transferee. In other instances transfers of an offer will not be approved prior to the issuance of a lease for the lands or deposits covered by the said transfers.

(l) If an offeror dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed, and if probate has been completed, or is not required, to the heirs or devisees, provided there is filed in all cases an offer to lease in compliance with the requirements of this section which will be effective as of the effective date of the original application or lease offer filed by the deceased. If there are any minor heirs or devisees, such offer can only be made by their legal guardian or trustee in his name. Each such offer must be accompanied by the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person who as executor or administrator submits the offer, and bond form if a bond is required, has authority to act in that capacity and to sign the offer and bond forms.

(ii) A statement over the signature of each heir or devisee, similar to that required of an offeror under paragraph (e) (4) of this section concerning citizenship and holdings.

(iii) Evidence that the heirs or devisees are the heirs or devisees of the deceased offeror and are the only heirs or devisees of the deceased.

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the offeror and the provisions of the law of the deceased's last domicile showing that no probate is required.

(ii) A statement over the signature of each of the heirs or devisees with reference to holdings and citizenship, similar to that required under paragraph (e) (4) of this section, except that if the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

(m) No lease shall be issued before final action has been taken on (1) any prior offer to lease the land, (2) any subsequent offer to lease the land that is based upon an alleged preferential right, and (3) any petition for the renewal or reinstatement of an existing or former lease on the land. If a lease is issued before final action has been taken on such an offer or petition, it shall be canceled, after due notice to the lessee, if the offeror or petitioner is found to be qualified and entitled to receive a lease on the land.

7. Section 192.100 is amended to read as follows:

§ 192.100 *Amount of bonds required of lessee.* (a) The successful bidder for a competitive lease prior to the issuance of the lease must furnish a corporate surety bond in the sum of at least double the amount of the $1 per acre annual rental but in no case less than $1,000 nor more than $5,000, conditioned on compliance with all the terms of the lease, and such a bond must also be filed when all or any part of the land in a lease issued non-competitively is included within the limits of a known geologic structure of a producing oil or gas field.

(b) Until a general lease bond is filed a noncompetitive lessee will be required to furnish and maintain a bond in the penal sum of not less than $1,000 in those cases in which a bond is required by law for the protection of the owners of surface rights.

(c) All leases shall provide that where a $5,000 bond is not already being maintained a general lease bond in the penal sum of $5,000 conditioned upon compliance with all lease terms covering the entire leasehold, shall be furnished by the lessee prior to the beginning of drilling operations. An operator or, if there is more than one operator covering different portions of the lease, each operator may furnish a $5,000 general lease bond in his own name as principal on the bond in lieu of the lessee. Where there are one or more operator's bonds affecting a single lease, each such bond must be conditioned upon compliance with all lease terms for the entire leasehold. Where a bond is furnished by an operator, suit may be brought thereon without joining the lessee if he is not a party to the bond. An operator's bond will not be accepted unless the operator holds an operating agreement which has been approved by the Department or has pending an operating agreement in proper condition for approval. The mere designation as operator will not suffice.

(d) Bonds shall be either corporate surety bonds or personal bonds except that bonds with individual sureties as provided in § 191.14 of this chapter may be furnished for the protection of the entryman or owner of surface rights. Personal bonds must be accompanied by a deposit of negotiable Federal securities in a sum equal at their par value to the amount of the bond and by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the conditions of the lease bond.

(e) In lieu of bonds required under any of the preceding paragraphs the holder of leases or of operating agreements approved by the Department or holder of operating rights by virtue of being designated operator or agent by the lessees pending departmental approval of operating agreements, may furnish a bond the amount of which must be $150,000 for full nationwide coverage under both the Mineral Leasing Act and the Mineral Leasing Act for Acquired Lands of 1947 (61 Stat. 1913; 30 U. S. C. 351–359), or at the rate of $25,000 for each unit of coverage. A unit of coverage shall be all the lands in any one State or Territory held by the principal under either the Mineral Leasing Act or the Mineral Leasing Act for Acquired Lands. Coverage under both acts in one State or Territory constitutes two units. In lieu of a surety bond a personal bond in a like amount may be given by the obligor with the deposit as security therefor of negotiable bonds of the United States of a par value equal to the amount specified in the bond.

8. Section 192.120 is amended to read as follows:

§ 192.120 *Single extension of a noncompetitive lease.* (a) Under the conditions set out in the following paragraphs of this section, the record title holder of any noncompetitive lease maintained in accordance with the statutory requirements and the regulations in this part shall be entitled to a single extension of the lease at the expiration of the initial five-year term unless then otherwise provided by law. An application for such extension may be filed by the record title holder of the lease, by an assignee whose assignment has been filed for approval, or by an operator whose operating agreement has been filed for approval.

(b) The application for extension must be filed, within ninety days before the expiration date of the lease, on Form 4–1238, "Application for Extension of Oil and Gas Lease," or unofficial copies of that form in current use and should be accompanied by the payment of the sixth year's rental, unless previously paid: *Provided,* That the unofficial copies are exact reproductions on one sheet of both sides of the official approved one-page form, and are without additions, omissions, or other changes or advertising. Form 4–1238 or a valid reproduction of the official form, will also constitute approval of the extension when signed by an authorized officer.

(c) If during the 90 day period prior to the expiration date of the lease, the record title holder, assignee or operator files an application or request for an extension not on the prescribed form or unofficial copies thereof, or fails to file the prescribed number of copies, or pay the sixth year's rental, a notice will be issued allowing him 30 days to do so. The application will be rejected if such filing or payment is not made within the time allowed.

(d) Where, upon the expiration of the initial 5-year lease term, the leased lands or any part thereof, have been withdrawn from leasing, the lease will not be extended as to such lands, except that, a withdrawal shall not affect the right to an extension if drilling operations were actually commenced on the withdrawn lands prior to the effective date of the withdrawal and such operations were being diligently prosecuted on the expiration date of the lease, or if notice of the withdrawal has not been sent by registered mail to each lessee to be affected thereby, at least 90 days prior to the termination date of the lease.

(e) Upon compliance with, and in accordance with, the provisions of this section, the lease will be extended, subject to the rules and regulations in force at the expiration of the initial term, (1) as to the lands not within the known geologic structure of a producing oil or gas field, for a period of 5 years, and so long thereafter as oil or gas is produced in paying quantities, and (2) as to lands within the known geologic structure of a producing oil or gas field, for a period of 2 years and so long thereafter as oil or gas is produced in paying quantities.

9. Section 192.121 is amended to read as follows:

§ 192.121 *Continuation of lease on termination of production.* (a) A lease which is in its extended term because of production shall not terminate upon cessation of production if, within 60 days thereafter, reworking or drilling operations on the leasehold are commenced and are thereafter conducted with reasonable diligence during the period of nonproduction.

(b) No lease for lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same, unless the lessee fails to place the well on a producing status within 60 days after receipt of notice by registered mail from the Regional Oil and Gas Supervisor to do so: *Provided,* That after such status is established production shall continue on the leased premises unless and until suspension of production is allowed by the Secretary of the Interior under the provisions of the act.

8. Section 192.122 is amended to read as follows:

§ 192.122 *Extension for terms of cooperative or unit plan.* (a) Any lease issued for a term of 20 years, or any renewal thereof, committed to a cooperative or unit plan approved by the Secretary of the Interior, or any portion of such lease so committed, shall continue in force so long as committed to the plan, beyond the expiration date of its primary term. This provision does not apply to that portion of any such lease which is not included in the cooperative or unit plan unless the lease was so committed prior to August 8, 1946.

(b) Any other lease issued under any section of the act, committed to any such plan that contains a general provision for the allocation of oil or gas, shall continue in effect as to the land committed so long as the lease remains subject to the plan: *Provided,* That production of oil or gas is had in paying quantities under the plan prior to the expiration date of such lease, whether it be in its primary term or its extended term.

(c) Any lease committed after July 29, 1954 to such a plan, which covers lands within and lands outside the area covered by the plan, shall be segregated, as of the effective date of unitization, into separate leases; one covering the lands committed to the plan and the other the lands not so committed. The segregated lease covering the nonunitized portion of the lands, shall continue in force for the term of the parent lease, or for two years from the date of segregation, whichever period is longer, and for so long thereafter as oil or gas is produced in paying quantities.

10. Section 192.144 is amended to read as follows:

§ 192.144 *Extension of leases segregated by assignment.* (a) Any lease segregated by assignment, including the retained portion, shall continue in effect for the primary term of the original lease, or for two years after the date of discovery of oil or gas in paying quantities upon any other segregated portion of the original lease, whichever is the longer period.

(b) Undeveloped parts of leases assigned out of leases which are in their extended term under any provision of the act shall continue in effect for two years, and so long thereafter as oil or gas is produced in paying quantities.

11. Section 192.161 is amended to read as follows:

§ 192.161 *Cancellation and termination of lease.* (a) Any lease issued after July 29, 1954 or any lease which is extended after that date pursuant to § 192.120, on which there is no well capable of producing oil or gas in paying quantities shall automatically terminate by operation of law if the lessee fails to pay the rental on or before the anniversary date of such lease. If the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely. Whenever the lessee fails otherwise to comply with any of the provisions of the act, of the regulations issued thereunder, or of the lease, such lease may be cancelled by the Secretary of the Interior if not known to contain valuable deposits of oil or gas after notice to lessee in accordance with section 31 of the act, if default continues for the period prescribed in that section after service of notice thereof. Any lessee of a lease which issued prior to July 29, 1954 may, at any time prior to the anniversary date of such lease and the accrual of rental, elect to subject his lease to the automatic termination provisions of this section by notifying, in writing, the manager of the appropriate land office to that effect.

(b) Leases known to contain valuable deposits of oil or gas may be cancelled only by judicial proceedings in the manner provided in sections 27 and 31 of the act.

(Sec. 32, 41 Stat. 450; 30 U. S. C. 189)

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

DECEMBER 7, 1954.

[F. R. Doc. 54-10282; Filed, Dec. 28, 1954; 8:47 a. m.]

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 1894]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES AND LICENSES

PART 192—OIL AND GAS LEASES—GENERAL PROVISIONS

MISCELLANEOUS AMENDMENTS

1. Section 191.12 is amended to read as follows:

§ 191.12 *Payment of rentals.* Unless otherwise directed by the Secretary,[1] rentals and royalties under all leases and permits issued under the act shall be paid to the Manager of the land office in the State in which the lands are located or, if there is no land office in such State, to the Director, Bureau of Land Management, Washington 25, D. C., except that for lands in the following States, payments must be made in the land office named: North or South Dakota, the land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma at Santa Fe, New Mexico. All remittances to Bureau of Land Management offices shall be made payable to the Bureau of Land Management.

2. Section 191.26 is amended to read as follows:

§ 191.26 *Suspension of operations and production.* (a) Applications by lessees for relief from the producing requirements or from all operating and producing requirements of mineral leases shall be filed in triplicate in the office of the regional oil and gas supervisor for oil and gas leases, and in the office of the regional mining supervisor for all other leases.[2] As to oil and gas leases, no suspension of operations and production will be granted on any lease in the absence of a well capable of production on the leasehold, except where the Secretary directs a suspension in the interest of conservation. Complete information must be furnished showing the necessity for such relief.

(b) The term of any lease will be extended by adding thereto any period of suspension of all operations and production during such term pursuant to any direction or assent of the Secretary.

(c) A suspension shall take effect as of the time specified in the direction or assent of the Secretary. Rental and minimum royalty payments will be suspended during any period of suspension of all operations and production directed or assented to by the Secretary, beginning with the first day of the lease month on which the suspension of operations and production becomes effective or, if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension of rental and minimum royalty payments shall end on the first day of the lease month in which operations or production is resumed. Where rentals are creditable against royalties and have been paid in advance, proper credit will be allowed on the next rental or royalty due under the lease.

(d) No lease shall be deemed to expire by reason of a suspension of either operations or production only, pursuant to any direction or assent of the Secretary.

(e) If there is a well capable of producing on the leased premises and all operations and production are suspended pursuant to any direction or assent of the Secretary, the commencement of drilling operations only will be regarded as terminating the suspension as to operations but not as to production, and as terminating the period of suspension to be added to the term of the lease as provided in paragraph (b) of this section and the period of suspension of rental and minimum royalty payments as provided in paragraph (c) of this section. However, as provided in paragraph (d) of this section, the term of the lease will not be deemed to expire so long as the suspension of operations or production remains in effect.

(f) The minimum annual production requirements of a lease issued under the act for coal, phosphate, potassium, sodium, oil shale or sulphur shall be proportionately reduced for that portion of a lease year for which suspension of operations and production is directed or granted by the Secretary of the Interior in the interest of conservation.

(Sec. 32, 41 Stat. 450, sec. 1, 44 Stat. 301; 30 U. S. C. 189, 271)

3. Section 192.3 is amended to read as follows:

§ 192.3 *Acreage limitation on leases.* (a) No person, association, or corporation, except as in the act provided, may hold more than 46,080 acres in any one State, or more than 100,000 acres in the Territory of Alaska, whether directly through the ownership of leases or interests in leases, or indirectly as a member of an association or associations, or as a stockholder of a corporation, or corporations, holding leases or interests therein or both. All leases committed to any unit or cooperative plan approved or prescribed by the Secretary of the Interior shall not be included in computing accountable acreage under section 27 of the act. All leases operated under an operating, drilling, or development contract approved by the Secretary of the Interior pursuant to section 17 (b) of the act, and interests thereunder, other than communitization agreements, and all leases issued under sections 18 and 19 of the act shall be excepted in determining the lessees' and the operators' acreage holdings or control under the provisions of any section of this act.

(b) In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease shall be such party's proportionate part of the total lease acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part

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[1] Under Secretary's Order No. 2505, all rentals and royalties on productive oil and gas leases, and on all leases in productive, unitized areas, and payments on easements for directional drilling and on storage agreements are to be paid to the Regional Oil and Gas Supervisor of the United States Geological Survey. All remittances to Geological Survey offices shall be made payable to the Treasurer of the United States. (Rentals and royalties on productive mining leases are to be paid to the Regional Mining Supervisor.)

[2] By Departmental Order No. 2699 and Geological Survey Order No. 218 of August 11, 1952, the regional oil and gas supervisors and the regional mining supervisors are authorized to act on applications for suspension of operations or production or both filed pursuant to this section and to terminate suspensions of this kind which have been or may be granted.

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of the corporation's or association's accountable acreage. Parties owning a royalty or other interest determined by or payable out of a percentage of production from a lease will be charged with a similar percentage of the total lease acreage.

(c) No lease will be issued and no transfer will be approved until it has been shown pursuant to the requirements of § 192.42 (e) (4) that the lessee or transferee is entitled to hold the acreage. Any party found to hold or control accountable acreage computed in accordance with the principles above set forth in excess of the prescribed limitations shall be given thirty days within which to file proof of the reduction of his holdings or control so as to conform with the prescribed limitation.

4. Section 192.4 is amended to read as follows:

§ 192.4 *Acreage limitations on options.* (a) Acreage held under a nonrenewable option, valid only for three years or such longer period as may be authorized by the Secretary, shall not be chargeable under § 192.3, but no optionee may hold options at any one time for more than 200,000 acres in any one State, or in the Territory of Alaska.

(b) No such option shall be taken for more than three years without the prior approval of the Secretary of the Interior, except that an option hereafter taken on a lease application or offer may be for the period of time until issuance of the lease and three years thereafter. Where it is sought to obtain options for periods in excess of those provided in the preceding sentence, an application should be filed with the Director, Bureau of Land Management, accompanied by a complete showing as to the special or unusual circumstances which are believed to justify approval of the application by the Secretary.

(c) Within the meaning of this section, options may be taken only on lands embraced in leases and offers or applications for leases and the acreage included in any such option taken upon an application or offer for a lease shall be chargeable from and after the date of such option.

(d) It shall be permissible for any such option to provide that where all or any part of the land covered thereby is included in a cooperative or unit plan (as defined in § 192.20) duly executed by the parties and submitted to the Secretary for final approval prior to the expiration of the three-year option period, then, as to that part of the land covered by said option which is included in said cooperative or unit plan, such option shall not expire until a date 30 days after the date of final approval or disapproval by the Secretary of that cooperative or unit plan.

(e) Each optionee must file with the Director, Bureau of Land Management, within 90 days after December 31 and June 30 of each year, a statement showing as of the prior December 31 and June 30, respectively, (1) name of optioner and serial number of lease, application or offer for lease subject to the option (2) date and expiration date of each option, (3) number of acres covered by each option, and (4) aggregate number of options held in each State and total acreage thereof.

(f) If the statement shows or it is otherwise ascertained that the optionee holds options in excess of the prescribed limitation, he will be given 30 days within which to file proof of reduction of his option holdings to the limitations prescribed by the act.

5. Section 192.8 is amended to read as follows:

§ 192.8 *Protection of leased lands from drainage.* (a) Where land in any lease is being drained of its oil or gas content by a well either on a Federal lease issued at a lower rate of royalty or on land not the property of the United States, the lessee must drill and produce all wells necessary to protect the leased lands from drainage. In lieu of drilling such wells, the lessee may, with the consent of the Director of the Geological Survey, pay compensatory royalty in the amount determined in accordance with 30 CFR 221.21.

(b) The payment of compensatory royalty under this section or § 192.7 shall extend the primary or extended term of any lease for the period during which such compensatory royalty is paid, and for a period of one year from the discontinuance of such payment, and for so long thereafter as oil or gas is produced in paying quantities.

6. Section 192.42 is amended to read as follows:

§ 192.42 *Offer to lease, and issuance of lease.* (a) To obtain a non-competitive lease an offer to accept such lease must be made on Form 4–1158, "Offer to lease and lease for oil and gas," or on unofficial copies of that form in current use: *Provided,* That the copies are exact reproductions of one page of both sides of the official approved one page form and are without additions, omissions or other changes or advertising. Form 4–1158 or a valid reproduction of the official form will also constitute the lease when signed by the Manager of the Land Office.

(b) Five copies of Form 4–1158, or valid reproduction thereof, for each offer to lease shall be filed in the proper land office, or for land or deposits in States for which there are no land offices, with the Director of the Bureau of Land Management, Washington 25, D. C.[3] If less than five copies are filed, the offer will not be rejected, if not otherwise subject to rejection, until 30 days from filing have elapsed and if during that period the remaining required copies are filed, the offeror's priority will date from the date of the first filing. If the additional copies are not filed within the 30-day period the offer will be rejected and returned and will afford no priority to the offeror. Should the additional copies be filed after the 30-day period but before the offer has been rejected, the offeror will have a priority as of the later filing date. The offer must be filed on a form in effect at the date of filing. For the purpose of this part an offer will be considered filed when it is received in the proper office during business hours.

(c) The offeror shall mark one of the copies first filed at the top with the word "original." If that is not done, the manager will so mark one copy. If there is any variation in the land descriptions among the five copies, the copy marked "original" shall govern as to the lands covered by the lease.

(d) Each offer must be filled in on a typewriter or printed plainly in ink and signed in ink by the offeror or the offeror's duly authorized attorney in fact or agent. An offer may be made by a legal guardian or trustee in his name for the benefit of a non-alien minor or minors but an offer may not be filed by a minor. Each offer must describe the lands by legal subdivision, section, township, and range, if the lands are surveyed, and if not surveyed, by a metes and bounds description connected with a corner of the public land surveys by course and distance and must cover only lands entirely within a six-mile square. Each offer must be for an area of not more than 2,560 acres except where the rule of approximation applies, and may not be for less than 640 acres except in any one of the following instances:

(1) Where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation or such a plan which has been approved as to form by the Director of the Geological Survey.

(2) Where the land is surrounded by lands not available for leasing under the act, except that where the tract was isolated as the result of a partial relinquishment of a lease, no lease offer will be received for the relinquished land other than one filed under the conditions prescribed in subparagraph (1) of this paragraph for a period of 60 days from and after the date of filing of the partial relinquishment.

(e) Each offer, when first filed, shall be accompanied by:

(1) A filing fee of $10 which will be retained as a service charge, except as provided in paragraph (g) of this section, even though the offer should be rejected or withdrawn in whole or in part.

(2) Full payment of the first year's rental based on the total acreage if known, and if not known, on the basis of 40 acres for each smallest legal subdivision.

(3) Except in a case where an officer of a corporation signs an offer on behalf of the corporation (as to which see paragraph (f) (2) of this section), evidence of the authority of the attorney in fact or agent to sign the offer and lease, if the offer is signed by such attorney or agent on behalf of the offeror; and in addition, if such offeror is an individual, a statement over the offeror's signature setting forth the offeror's citizenship and whether the offeror's direct and indirect interests in oil and gas leases, applica-

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[3] Offers for lands or mineral deposits in the following States should be filed at the land office named: North or South Dakota, land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma, at Santa Fe, New Mexico.

tions, and offers therefor, exceeds 46,080 chargeable acres in the same State, or exceeds 100,000 acres in the Territory of Alaska.

(4) If the offer is signed by an attorney in fact or agent, or if any attorney in fact or agent has been authorized to act on behalf of the offeror with respect to the offer or lease, separate statements over the signatures of the attorney in fact or agent and the offeror stating whether or not there is any agreement or understanding between them, or with any other person, either verbal or written by which the attorney in fact or agent or such other person has received, or is to receive, any interest in the lease when issued, including royalty interest or interest in an operating agreement under the lease giving full details of the agreement or understanding, if it is a verbal one; the statement must be accompanied by a copy of any such written agreement or understanding; and if such an agreement or understanding exists, the statement of the attorney in fact or agent should set forth the citizenship of the attorney in fact or the agent or other person and whether his direct and indirect interests in oil and gas leases, applications, and offers therefor exceeds 46,080 chargeable acres in the same State, or exceeds 100,000 acres in the Territory of Alaska. This requirement does not apply in cases in which the attorney in fact or agent is a member of an unincorporated association (including a partnership) or is an officer of a corporation and has an interest in the offer or the lease to be issued solely by reason of the fact that he is a member of the association or a stockholder in the corporation.

(5) If the offer is made by a guardian or trustee, a certified copy of the court order authorizing him to act as such and to fulfill in behalf of the minor or minors all obligations of the lease or arising thereunder; his statements as to the citizenship and holdings of each of the minors; and a similar statement as to his own citizenship and holdings under the leasing act, including his holdings for the benefit of other minors.

(6) If the offer is made by an association (including a partnership), it must be accompanied by a certified copy of the articles of association and the same showing as to the citizenship and holdings of its members as required of an individual.

(f) If the offeror is a corporation the offer must be accompanied by a statement showing (1) the State in which it is incorporated, (2) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters, (3) the percentage of voting stock and of all the stock owned by aliens for those having addresses outside of the United States, and (4) the names and addresses of the stockholders holding 20 percent or more of the stock of the corporation. When the stock owned by aliens is over 10 percent, additional information may be required by the Bureau before the lease is issued or production is obtained. A separate showing of citizenship and holdings of stockholders owning or controlling 20 percent or more of the stock of any class must also be furnished. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

(g) (1) Except as provided in subparagraph (2) of this paragraph, an offer will be rejected and returned to the offeror and will afford the applicant no priority if:

(i) The land description is insufficient to identify the lands or the lands are not entirely within a 6-mile square.

(ii) The total acreage exceeds 2,560 acres, except where the rule of approximation applies or is less than 640 acres or the equivalent of a section and is not within the exceptions in paragraph (d) of this section.

(iii) The full filing fee and the first year's rental do not accompany the offer, the rental payment to be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest legal subdivision.

(iv) The offer is signed by an agent in behalf of the offeror and the offer is not accompanied by a statement over the offeror's own signature with respect to holdings and citizenship and by the statements and evidence required by paragraph (e) (4) of this section.

(v) The offer is signed by a guardian or trustee in behalf of a minor and is not accompanied by the evidence required by paragraph (e) (5) of this section.

(vi) Less than five copies of the offer are filed and the copies lacking are not received in the land office before the expiration of 30 days from the date of receipt of the copies first filed.

(vii) There is noncompliance with item 5 (a) and (e) of the Special Instructions. The offeror will be given an opportunity to file a new offer within 30 days from service of the rejection, and the fee and rental payments on the old offer will be applied to the new offer if the new offer shows the serial and receipt numbers of the old offer. The advance rental will be returned unless within the 30-day period another offer is filed.

(2) An offer to lease containing any of the following deficiencies will be approved by the signing officer provided all other requirements are met:

(i) An offer deficient in the first year's rental by not more than 10 percent. The additional rental must be paid within 30 days from notice under penalty of cancellation of the lease.

(ii) An offer covering not more than 10 percent over the maximum allowable acreage of 2,560 acres. The lease will be approved for 2,560 acres in the discretion of the signing officer or so much over that amount as may be included under the rule of approximation.

(iii) An offer completed in pencil or script.

(iv) An offer on a lease form not currently in use.

(v) An offer or a form not correctly reproduced provided it contains the statement that the offeror agrees to be bound by the terms and conditions of the lease form in effect at the date of filing.

(h) An offer may not be withdrawn, either in whole or in part, unless the withdrawal is received by the land office before the lease, an amendment of the lease, Form 4-1163, or a separate lease, whichever covers the land described in the withdrawal, has been signed on behalf of the United States.

(i) The United States will indicate its acceptance of the lease offer, in whole or in part, and the issuance of the lease by the signature of the appropriate officer thereof in the space provided. An executed copy of the lease will be mailed to the offeror at the address of record.

(j) If any of the land described in item 2 of the offer is open to oil and gas filing when the offer is filed but is omitted from the lease for any reason and thereafter becomes available for leasing to the offeror, the original lease will be amended to include the omitted land unless before the issuance of the amendment to Form 4-1158 the land office receives a withdrawal of the offer as to such land or an election to receive a separate lease in lieu of an amendment. Such election shall consist of a signed statement by the offeror asking for a separate lease accompanied by a new offer on Form 4-1158 describing the remaining lands in his original offer, executed pursuant to this section. The new offer will have the same priority as the old offer. It need not be accompanied by the filing fee. The rental payment held on the original offer will be applied to the new offer. The rental and the lease term for the land added by such an amendment shall be the same as if the land had been included in the original lease when it was issued. If a separate lease is issued, it will be dated in accordance with § 192.40a.

(k) A transfer of the whole interest in all or any part of the offer may be approved as an incident to the transfer, by assignment or otherwise, of the whole interest in all or any part of the lease. A transfer of an undivided fractional interest in the whole offer may be approved as an incident to the transfer of an undivided fractional interest in the whole lease. An application for approval of a transfer of an offer must include a statement that the transferee agrees to be bound by the offer to the extent that it is transferred and must be signed by the transferee. In other instances transfers of an offer will not be approved prior to the issuance of a lease for the lands or deposits covered by the said transfers.

(l) If an offeror dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed, and if probate has been completed, or is not required, to the heirs or devisees, provided there is filed in all cases an offer to lease in compliance with the requirements of this section which will be effective as of the effective date of the original application or lease offer filed by the deceased. If there are any minor heirs or devisees, such offer can only be made by their legal guardian or trustee in his name. Each such offer must be accompanied by the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person who as executor or administrator submits the offer, and bond form if a bond is required, has authority to act in that capacity and to sign the offer and bond forms.

(ii) A statement over the signature of each heir or devisee, similar to that required of an offeror under paragraph (e) (4) of this section concerning citizenship and holdings.

(iii) Evidence that the heirs or devisees are the heirs or devisees of the deceased offeror and are the only heirs or devisees of the deceased.

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the offeror and the provisions of the law of the deceased's last domicile showing that no probate is required.

(ii) A statement over the signature of each of the heirs or devisees with reference to holdings and citizenship, similar to that required under paragraph (e) (4) of this section, except that if the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

(m) No lease shall be issued before final action has been taken on (1) any prior offer to lease the land, (2) any subsequent offer to lease the land that is based upon an alleged preferential right, and (3) any petition for the renewal or reinstatement of an existing or former lease on the land. If a lease is issued before final action has been taken on such an offer or petition, it shall be canceled, after due notice to the lessee, if the offeror or petitioner is found to be qualified and entitled to receive a lease on the land.

7. Section 192.100 is amended to read as follows:

§ 192.100 *Amount of bonds required of lessee.* (a) The successful bidder for a competitive lease prior to the issuance of the lease must furnish a corporate surety bond in the sum of at least double the amount of the $1 per acre annual rental but in no case less than $1,000 nor more than $5,000, conditioned on compliance with all the terms of the lease, and such a bond must also be filed when all or any part of the land in a lease issued non-competitively is included within the limits of a known geologic structure of a producing oil or gas field.

(b) Until a general lease bond is filed a noncompetitive lessee will be required to furnish and maintain a bond in the penal sum of not less than $1,000 in those cases in which a bond is required by law for the protection of the owners of surface rights.

(c) All leases shall provide that where a $5,000 bond is not already being maintained a general lease bond in the penal sum of $5,000 conditioned upon compliance with all lease terms covering the entire leasehold, shall be furnished by the lessee prior to the beginning of drilling operations. An operator or, if there is more than one operator covering different portions of the lease, each operator may furnish a $5,000 general lease bond in his own name as principal on the bond in lieu of the lessee. Where there are one or more operator's bonds affecting a single lease, each such bond must be conditioned upon compliance with all lease terms for the entire leasehold. Where a bond is furnished by an operator, suit may be brought thereon without joining the lessee if he is not a party to the bond. An operator's bond will not be accepted unless the operator holds an operating agreement which has been approved by the Department or has pending an operating agreement in proper condition for approval. The mere designation as operator will not suffice.

(d) Bonds shall be either corporate surety bonds or personal bonds except that bonds with individual sureties as provided in § 191.14 of this chapter may be furnished for the protection of the entryman or owner of surface rights. Personal bonds must be accompanied by a deposit of negotiable Federal securities in a sum equal at their par value to the amount of the bond and by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the conditions of the lease bond.

(e) In lieu of bonds required under any of the preceding paragraphs the holder of leases or of operating agreements approved by the Department or holder of operating rights by virtue of being designated operator or agent by the lessees pending departmental approval of operating agreements, may furnish a bond the amount of which must be $150,000 for full nationwide coverage under both the Mineral Leasing Act and the Mineral Leasing Act for Acquired Lands of 1947 (61 Stat. 1913; 30 U. S. C. 351–359), or at the rate of $25,000 for each unit of coverage. A unit of coverage shall be all the lands in any one State or Territory held by the principal under either the Mineral Leasing Act or the Mineral Leasing Act for Acquired Lands. Coverage under both acts in one State or Territory constitutes two units. In lieu of a surety bond a personal bond in a like amount may be given by the obligor with the deposit as security therefor of negotiable bonds of the United States of a par value equal to the amount specified in the bond.

8. Section 192.120 is amended to read as follows:

§ 192.120 *Single extension of a noncompetitive lease.* (a) Under the conditions set out in the following paragraphs of this section, the record title holder of any noncompetitive lease maintained in accordance with the statutory requirements and the regulations in this part shall be entitled to a single extension of the lease at the expiration of the initial five-year term unless then otherwise provided by law. An application for such extension may be filed by the record title holder of the lease, by an assignee whose assignment has been filed for approval, or by an operator whose operating agreement has been filed for approval.

(b) The application for extension must be filed, within ninety days before the expiration date of the lease, on Form 4–1238, "Application for Extension of Oil and Gas Lease," or unofficial copies of that form in current use and should be accompanied by the payment of the sixth year's rental, unless previously paid: *Provided,* That the unofficial copies are exact reproductions on one sheet of both sides of the official approved one-page form, and are without additions, omissions, or other changes or advertising. Form 4–1238 or a valid reproduction of the official form, will also constitute approval of the extension when signed by an authorized officer.

(c) If during the 90 day period prior to the expiration date of the lease, the record title holder, assignee or operator files an application or request for an extension not on the prescribed form or unofficial copies thereof, or fails to file the prescribed number of copies, or pay the sixth year's rental, a notice will be issued allowing him 30 days to do so. The application will be rejected if such filing or payment is not made within the time allowed.

(d) Where, upon the expiration of the initial 5-year lease term, the leased lands or any part thereof, have been withdrawn from leasing, the lease will not be extended as to such lands, except that, a withdrawal shall not affect the right to an extension if drilling operations were actually commenced on the withdrawn lands prior to the effective date of the withdrawal and such operations were being diligently prosecuted on the expiration date of the lease, or if notice of the withdrawal has not been sent by registered mail to each lessee to be affected thereby, at least 90 days prior to the termination date of the lease.

(e) Upon compliance with, and in accordance with, the provisions of this section, the lease will be extended, subject to the rules and regulations in force at the expiration of the initial term, (1) as to the lands not within the known geologic structure of a producing oil or gas field, for a period of 5 years, and so long thereafter as oil or gas is produced in paying quantities, and (2) as to lands within the known geologic structure of a producing oil or gas field, for a period of 2 years and so long thereafter as oil or gas is produced in paying quantities.

9. Section 192.121 is amended to read as follows:

§ 192.121 *Continuation of lease on termination of production.* (a) A lease which is in its extended term because of production shall not terminate upon cessation of production if, within 60 days thereafter, reworking or drilling operations on the leasehold are commenced and are thereafter conducted with reasonable diligence during the period of nonproduction.

(b) No lease for lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same, unless the lessee fails to place the well on a producing status within 60 days after receipt of notice by registered mail from the Regional Oil and Gas Supervisor to do so: *Provided,* That after such status is established production shall continue on the leased premises unless and until suspension of production is allowed by the Secretary of the Interior under the provisions of the act.

8. Section 192.122 is amended to read as follows:

§ 192.122 *Extension for terms of cooperative or unit plan.* (a) Any lease issued for a term of 20 years, or any renewal thereof, committed to a cooperative or unit plan approved by the Secretary of the Interior, or any portion of such lease so committed, shall continue in force so long as committed to the plan, beyond the expiration date of its primary term. This provision does not apply to that portion of any such lease which is not included in the cooperative or unit plan unless the lease was so committed prior to August 8, 1946.

(b) Any other lease issued under any section of the act, committed to any such plan that contains a general provision for the allocation of oil or gas, shall continue in effect as to the land committed so long as the lease remains subject to the plan: *Provided,* That production of oil or gas is had in paying quantities under the plan prior to the expiration date of such lease, whether it be in its primary term or its extended term.

(c) Any lease committed after July 29, 1954 to such a plan, which covers lands within and lands outside the area covered by the plan, shall be segregated, as of the effective date of unitization, into separate leases; one covering the lands committed to the plan and the other the lands not so committed. The segregated lease covering the nonunitized portion of the lands, shall continue in force for the term of the parent lease, or for two years from the date of segregation, whichever period is longer, and for so long thereafter as oil or gas is produced in paying quantities.

10. Section 192.144 is amended to read as follows:

§ 192.144 *Extension of leases segregated by assignment.* (a) Any lease segregated by assignment, including the retained portion, shall continue in effect for the primary term of the original lease, or for two years after the date of discovery of oil or gas in paying quantities upon any other segregated portion of the original lease, whichever is the longer period.

(b) Undeveloped parts of leases assigned out of leases which are in their extended term under any provision of the act shall continue in effect for two years, and so long thereafter as oil or gas is produced in paying quantities.

11. Section 192.161 is amended to read as follows:

§ 192.161 *Cancellation and termination of lease.* (a) Any lease issued after July 29, 1954 or any lease which is extended after that date pursuant to § 192.120, on which there is no well capable of producing oil or gas in paying quantities shall automatically terminate by operation of law if the lessee fails to pay the rental on or before the anniversary date of such lease. If the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely. Whenever the lessee fails otherwise to comply with any of the provisions of the act, of the regulations issued thereunder, or of the lease, such lease may be cancelled by the Secretary of the Interior if not known to contain valuable deposits of oil or gas after notice to lessee in accordance with section 31 of the act, if default continues for the period prescribed in that section after service of notice thereof. Any lessee of a lease which issued prior to July 29, 1954 may, at any time prior to the anniversary date of such lease and the accrual of rental, elect to subject his lease to the automatic termination provisions of this section by notifying, in writing, the manager of the appropriate land office to that effect.

(b) Leases known to contain valuable deposits of oil or gas may be cancelled only by judicial proceedings in the manner provided in sections 27 and 31 of the act.

(Sec. 32, 41 Stat. 450; 30 U. S. C. 189)

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

DECEMBER 7, 1954.

[F. R. Doc. 54-10282; Filed, Dec. 28, 1954; 8:47 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Circular No. 1895

PART 250—PUBLIC SALES

Sec.
250.1 Statutory authority.
250.2 Definitions.
250.3 Application.
250.4 Action upon the application or in the absence of application.
250.5 Effect of application.
250.6 Land subject to sale as isolated tracts.
250.7 Land subject to sale as mountainous or too rough for cultivation; qualifications of applicant.
250.8 Mineral lands.
250.9 Publication of notice; time and proof of publication; posting required.
250.10 The bidding.
250.11 Action at close of bidding.
250.12 Action after purchaser is declared.
250.13 Appeals.

AUTHORITY: §§ 250.1 to 250.13 issued under R. S. 2478; 43 U. S. C. 1201.

SOURCE: §§ 250.1 to 250.13 contained in Circular 1666, 12 F. R. 7944, except as noted following sections affected.

§ 250.1 *Statutory authority.*[1] The sale at public auction of isolated or disconnected tracts of public land not exceeding 1,520 acres, and tracts not isolated, of not exceeding 760 acres, the greater parts of which are mountainous or too rough for cultivation, is authorized by section 2455 of the Revised Statutes, as amended by section 14 of the act of June 28, 1934 (48 Stat. 1274; 43 U. S. C. 1171) and the act of July 30, 1947 (61 Stat. 630).

§ 250.2 *Definitions.* When used in this part:

(a) "Secretary" means Secretary of the Interior.

(b) "Director" means Director, Bureau of Land Management.

(c) "Regional Administrator" means the regional administrator for the region in which the land is situated.

(d) "Manager" means the manager of the land office for the district in which the land is situated. When there is no district land office in a State, it means the regional officer who has been authorized to perform the functions of the manager for sales under this part of public lands in that State.

(e) "Applicant" or "purchaser" includes an individual, a partnership, an association, or a corporation.

[Circ. 1666, 12 F. R. 7944, as amended by Circ. 1693, 13 F. R. 5182]

(Paragraphs (c) and (d) amended by Circular No. 1851, July 29, 1953)

(f) "Land office" means the land office for the district in which the lands are situated.

(Paragraph (f) amended by Circular No. 1877, 19 F.R., August 18, 1954)

§ 250.3 *Application.* (a) An application to have tracts ordered into the market must be executed in duplicate on Form 4–008e. The application must be filed with the manager of the land office for the district within which the land is situated. If the land is in a State in which there is no district land office, the application must be filed with the Director.

(b) The application need not be under oath but must be signed by the applicant and two corroborating witnesses having personal knowledge of the facts stated therein.[2]

§ 250.4 *Action upon the application or in the absence of application.* (a) If an application is not properly executed or not corroborated, if the applicant does not show himself qualified, or if the tract appears not to be subject to disposition, the application will be rejected. If part of the tract is appropriated, the application will be rejected as to that part, and, in the absence of an appeal, the description thereof eliminated from the application, and such further action will be taken as though it had never been included therein.

(b) The regional administrator may classify under section 7 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U. S. C. 315f) as amended, land for offering under this part, and he may authorize such offering of the land for sale if he determines, in accordance with the existing regulations and procedures, that such land is suitable for disposal as an isolated or as a rough or mountainous tract, as the case may be.

(c) The regional administrator may authorize the offering of an isolated tract for sale either upon application or on his own motion.

[Circ. 1666, 12 F. R. 7944, as amended by Circ. 1693, 13 F. R.5182]

§ 250.5 *Effect of application.* The filing of an application in conformity with the regulations in this part will not segregate the lands applied for from other application under the public land laws, or defeat a prior valid right initiated under any such law. However, until the issuance of a cash certificate, the regional administrator may at any time determine that the lands should not be sold, the applicant or any bidder has no contractual or other rights as against the United States, and no action taken will create any contractual or other obligation of the United States.

[Circ. 1666, 12 F. R. 7944, as amended by Circ. 1693, 13 F. R. 5182]

§ 250.6 *Land subject to sale as isolated tracts.* (a) There is no limitation as to the number of isolated-tract applications which may be filed, nor as to the amount of such land which may be applied for or purchased by any one person or group. An application may include several incontiguous tracts, but it may not embrace an aggregate area in excess of 1,520 acres, and tracts with an area over 1,520 acres will not be ordered into the market. Each isolated tract will be offered separately and a separate cash certificate will be issued for each tract, except to the extent that they are bought by the same person.

(b) As a general rule, no tract will be deemed isolated unless it is completely surrounded by lands held in non-Federal ownership, or is so effectively separated from other federally owned lands by

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[1] The provisions of R. S. 2455 (43 U. S. C. 1171) authorizing public sales, were extended, with certain conditions, to the areas mentioned below by the statutes indicated:

Area	*Statute*
Chippewa Indian lands, Minn.	Feb. 4, 1919 (40 Stat. 1055; 43 U. S. C. 1172).
Oregon and California railroad grant lands, Oreg., Class 3.	May 25, 1920 (41 Stat. 622; 43 U. S. C. 1174)
Oregon and California railroad grant and Coos Bay wagon-road grant lands, Oreg.	Section 3, August 28, 1937 (50 Stat. 875).
Oklahoma ----------	April 24, 1928 (45 Stat. 457; 43 U. S. C. 1171a).
Alabama coal lands_	May 23, 1930 (46 Stat. 377; 43 U. S. C. 1171b).

[2] 18 U. S. C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statments or representations as to any matter within its jurisdiction.

Reprint, December 14, 1954, of Circular No. 1666, November 19, 1947, as amended by Circular No. 1693, August 27, 1948, Circular No. 1791, May 4, 1951, Circular No. 1848, June 4, 1953, Circular No. 1851, July 29, 1953, and Circular 1877, August 11, 1954.

some permanent withdrawal or reservation as to make its use with such lands impracticable. A tract is considered isolated if the contiguous tracts are all patented, even though there are other public lands cornering upon the tract.

§ 250.7 *Land subject to sale as mountainous or too rough for cultivation; qualifications of applicant.* (a) Legal subdivisions not exceeding 760 acres, the greater part of which is mountainous or too rough for cultivation, may be offered for sale only upon the application of any person who owns land or holds a valid entry on lands adjoining such tract and regardless of the fact that such tract may not be actually isolated.

(b) An applicant for sale of a tract which is mountainous or too rough for cultivation must show that he is the owner of the whole title, that is, the fee owner, of land adjoining the land applied for, or that he holds a valid entry embracing adjoining land, in connection with which entry he has met the requirements of the law. A showing that the applicant owns cornering land or holds a valid entry of a cornering tract would not qualify him.

(c) An application under this section may not embrace more than 760 acres. An applicant may file any number of applications provided the land applied for together with such land previously purchased does not exceed 760 acres in area. The limitation under this section relates only to applications under this section. In acting on applications for rough or mountainous tracts, regard will be had to the character of each subdivision applied for. An entire tract composed of more than one legal subdivision will not be offered upon the ground that the greater part of the tract is mountainous or too rough for cultivation, if taken as a whole.

§ 250.8 *Mineral lands.* (a) Mineral lands may not be sold except under specific statutory authority which exists for the sale of lands valuable for certain minerals with a reservation of those minerals to the United States. The regulations relating to applications for the surface of such lands are contained in Part 102 of this chapter. They must be complied with whenever an application is filed for land, withdrawn, classified, or valuable for such minerals, where such land is embraced by mineral permits or leases, or applications for such permits or leases, or where the land lies within the geological structure of a producing oil or gas field.

(b) The notice of sale for publication and posting will provide that the land will be sold subject to reservations to the United States of the appropriate minerals, and in accordance with the provisions of the applicable act or acts which authorize the making of the reservation. The cash certificate and patent will provide for such reservation and will refer to such act or acts.

§ 250.9 Publication of notice; time and proof of publication; posting required; reimbursement for publication costs.

(a) Upon the issuance of a decision authorizing the sale, a notice for publication will be sent the applicant with instructions that he publish it at his expense in the newspaper designated. Payment for publication must be made by the applicant directly to the publisher. The notice must be published prior to the date of sale in the designated newspaper, if a daily paper, in the Wednesday issue for five consecutive weeks; if a weekly, in five consecutive issues; and if a semi-weekly or tri-weekly, in the issue of the same day of each week, for five consecutive weeks. The manager will cause a similar notice to be posted in his office during the entire period of publication.

(b) The applicant must file in the district land office, prior to the date fixed for the sale, evidence that publication has been had for the required period. Such evidence may consist of the statement of the publisher, accompanied by a copy of the notice published.

(c) Where, after the date of the approval of this paragraph, a party expends money for publication of notice of a public sale, and the authorization for the sale is canceled, or a sale, if made, is vacated, because retention of the land in Federal ownership is deemed to be in the public interest, such party will be reimbursed by the Government for the expense so incurred. Where such action is taken at the request of a Federal agency other than the Bureau of Land Management, that agency will be requested to reimburse such party for the expense. Where an authorization for sale is canceled, or a sale, if made, is vacated because the appraised price or the sale price, of the land is found to be inadequate, and the land is again offered for sale, the republication will be made at the expense of the Government, and the person awarded the land must reimburse and pay directly to the applicant the amount expended for the first publication of notice. Such payment shall be made in the manner prescribed in and shall be governed by § 250.12 (a).

(Headnote amended and Paragraph (c) added, Circular 1877, 19 F. R., August 18, 1954)

§ 250.10 *The bidding; place for sale.* (a) The land will be offered for sale at public auction, at not less than its appraised value, at the time and place fixed in the public notice. The land will be offered for sale at the land office of the district in which the land is situated, if there is a land office in the State. If there is no land office in the State, the sale may be held at a place within the region in which the lands are situated, to be designated by the regional administrator.

(b) Bids may be made by the principal or his agent, either personally at the sale or by mail.

(c) Bids sent by mail wil be considered only if received at the place and prior to the hour fixed in the notice the sale. These bids must be accompanied by certified checks, post office money orders, bank drafts, or cashiers' checks for the amounts of the bids and must be enclosed in sealed envelopes which must be marked as prescribed in the notice of sale. The envelopes containing the sealed bids will not be opened until the time fixed for the sale.

(Paragraph (c) amended, Circular 1877, 19 F. R., August 18, 1954)

(d) The manager will commence the sale by reading the public announcement thereof and by opening the sealed bids and announcing such bids. He will then receive bids from the persons present.

(e) All bidders are warned against violation of the provisions of 18 U. S. C. 1860, prohibiting unlawful combination or intimidation of bidders.

(Paragraph (a) amended by Circular No. 1851, July 29, 1953)

§ 250.11 *Action at close of bidding—(a) Declaration of highest bidder.* When all persons present shall have ceased bidding, the manager will, in the usual manner, declare the bidding closed subject to the preference right of p chase of owners of contiguous land (see paragraph (b) of this section), announce the amount of the highest bid and declare the offerer thereof (or his principal) the highest bidder, provided that the latter immediately pays to the manager the amount of the bid, if he has not already done so. In the absence of such payment, the manager will at once proceed with the sale, excluding the bid made by the highest bidder and starting with the next highest bid not withdrawn. In the event the bids of two or more persons sent by mail are the same in amount and are the highest offered, the first received, as shown by the hour and date noted on the envelope, will be accepted by the manager. In no event may the land be sold or a purchaser declared before the end of the 30-day period for the assertion by contiguous land owners of their preference right of purchase.

(b) *Preference right of purchase; declaration of purchaser.* The owners of contiguous lands have a preference right, for a period of 30 days after the highest bid has been received, to purchase the land offered for sale at the highest bid price or at three times the appraised price if three times such appraised price is less than the highest bid price. Such preference right may also be asserted at any time prior to the commencement of such period. Such preference right extended to the owner or owners of cornering lands.

(1) (i) A preference right to purchase must be supported by proof of the claimant's ownership of the whole title to the contiguous lands (that is, he must show that he had the whole title in fee), and must be accompanied by the purchase price of the land.[3]

(ii) Failure to submit to the land office satisfactory proof during the 30-day period after the highest bid has been received will cause the preference right to be lost as to the particular public sale. Such proof must consist of (*a*) a certificate of the local recorder of deeds, or (*b*) an abstract of title or a certificate of title prepared and certified by a title company or by an abstracting company, showing that the claimant owns adjoining land in fee simple at or after the date of the sale. However, if the preference-right claimant does not own adjoining land at the close of the preference-right period, his preference-right claim may be lost.

(iii) After a case has been closed, the data filed pursuant to this section may be returned.

(Section 250.11(b)(1) amended by Circular 1877, 19 F. R., August 18, 1954)

(2) If there is only one qualified preference-right claimant, or if there are conflicting qualified preference-right claimants and there is an amicable agreement among them, the manager will declare such claimant or claimants purchasers.

(3) Where there is a conflict between two or more persons claiming a preference right of purchase, they will be allowed 30 days from receipt of notice within which to agree among themselves upon a division of the tracts by subdivisions. In the absence of an agreement an equitable division of the land will be made taking into consideration such factors as (i) the equalizing of the number of acres which each claimant will be permitted to purchase, (ii) desirable land use, based on topography, land pattern, location of water, and similar factors, and (iii) legitimate historical use, including construction and maintenance of authorized improvements. If equitable considerations dictate, all of the subdivisions may be awarded to one of the claimants. Where only one subdivision is offered for sale and it adjoins the lands of two or more preference right claimants, it will, in the absence of equitable considerations requiring otherwise, be awarded to the applicant for the sale if he is a qualified person who properly asserts such a preference right within or prior to the 30-day preference-right period. The manager will make the award by declaring the appropriate claimant or claimants purchasers of the land.

(Paragraph (b) (3) amended by Circular No. 1848, June 4, 1953)

(4) If, by the end of the preference-right period, no preference right has been asserted, the sale will be declared closed and the manager may declare the highest bidder the purchaser.

[Circ. 1666, 12 F. R. 7944, as amended by Circ. 1693, 13 F. R. 5182]

§ 250.12 *Action after purchaser is declared*—(a) *Payment of cost of publication by purchaser.* If the applicant for the sale is an unsuccessful bidder, the person awarded the land must reimburse and pay directly to him the amount expended for publication of notice and file evidence thereof in the district land office within 10 days from the date he is declared the purchaser. If the evidence is not furnished, the manager will reject the bid and will accept the bid next in order, subject to the same conditions. Where an equitable apportionment of the land is made between two or more claimants, pursuant to paragraph (b) of § 250.11, each of the claimants must bear an equal share of the expense.

(b) (1) Unless he has previously done so, the purchaser must, within 10 days after he has been so declared, file with the manager a statement of his citizenship, or if a partnership, a statement of the citizenship of its members. If the purchaser is an unincorporated association, a statement must be filed showing the citizenship of each member. A corporation is required to file a certified copy of its articles of incorporation showing that it is organized under the laws of the United States, or of some State, Territory or possession thereof, and that it is authorized to acquire and hold real estate in the State or Territory in which the land is situated, and it must furnish a statement showing the percentage of each class of its stock, and the percentage of all of its stock, which is owned or controlled by or on behalf of persons whom the corporation knows to be or has reason to believe are aliens, or who have addresses outside of the United States, indicating which classes of stock have voting rights. If more than 10 percent of the voting stock, or of all of the stock, is owned or controlled by or on behalf of such persons, the corporation must give their names and addresses, the amount and class of stock held by each, and, to the extent known to the corporation or which can be reasonably ascertained by it, the facts as to the citizenship of each such person.

(2) If the purchaser declared by the manager is an alien individual, a partnership a member of which is an alien, an unincorporated association any appreciable number of the members of which are aliens, or a corporation, any appreciable percentage of the stock of which is held by aliens, and if the sale to such purchaser has not previously been approved by the Secretary, the declaration of the purchaser is subject to approval by the Secretary of the Interior, and the manager will withhold the cash certificate until such approval has been given. Such purchaser may submit a statement of reasons why the declaration should be approved despite the question of citizenship.

(c) When there has been full compliance with the regulations in this part, the manager will issue a cash certificate to the purchaser.

/Paragraphs (b) and (c) amended by Circ. 1791, 16 F.R. 4340, May 10, 1951/

§ 250.13 *Appeals.* An appeal pursuant to the Rules of Practice (Part 221 of this chapter) may be taken from any decision of the manager to the Director, and, from the decision of the Director to the Secretary.

Note: The reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

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December 14, 1954

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[3] Although one who holds a valid adjoining entry may file an application for the sale of lands which are mountainous or too rough for cultivation, he may not assert a preference right of purchase unless he has acquired the whole title to adjoining lands.

INT.-DUP. SEC., WASH., D.C. 72280

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter U—State and Railroad Grants

[Circular No. 1896]

PART 272—CAREY ACT GRANTS

MISCELLANEOUS AMENDMENTS

1. Footnote 2 to § 272.1 is revised by adding the following:

The act of August 13, 1954 (68 Stat. 703) provides for the issuance of quitclaim deeds to the States for all lands patented to them under section 4 of the act of 1894 and also for the issuance of patents to the States, under certain conditions, for unpatented public lands segregated under that act as of August 13, 1954. The issuance of such quitclaims and patents to a State is conditional upon the State's quitclaiming or relinquishing all right, title, and interest in the State to any or all other lands under the Carey Act.

2. The following new text is added to Part 272.

QUITCLAIMS AND RELINQUISHMENTS

Sec.
272.50 Statutory authority.
272.51 Applications.

AUTHORITY: §§ 272.50 and 272.51 issued under the authority of 68 Stat. 703.

§ 272.50 *Statutory authority.* The act of August 13, 1954 (68 Stat. 703), directs the Secretary of the Interior to issue (a) quitclaim deeds to the public land States for all lands patented to such States under section 4 of the Carey Act of August 18, 1894 (28 Stat. 422; 43 U. S. C. 641) and (b) patents for all unpatented public lands within each State segregated under that act as of August 13, 1954, for which the State issued final certificates or other evidence of right prior to June 1, 1953 or as to which equitable claims to the lands accrued prior to that date by reason of cultivation or improvement of the lands for agricultural development purposes. The act provides that the Secretary shall issue such deeds and patents to a State only if that State (1) makes proper application for the transfer of the lands before August 13, 1957, and (2) quitclaims or relinquishes all right, title, and interest in the State to any and all other lands under the Carey Act.

§ 272.51 *Applications.* Any State desiring to secure a patent, a quitclaim deed, or both under the act must file prior to August 13, 1957, a proper application in the land office for the State in which the desired lands are located. The application must be filed in duplicate and in a form satisfactory to the appropriate land office. No standard form is prescribed for the application but it must include the following:

(a) The legal description and acreage of the lands for which a quitclaim deed is desired, together with the numbers, if any, and, when feasible, the dates of the original patents to the lands.

(b) The legal description and acreage of the lands for which a patent is desired, together with (1) the numbers and dates of the segregation lists which segregated the lands and (2) the basis for certification of the listed lands under the act. Where the State has issued documentary evidence of a right to enter upon and cultivate the lands, the statement of the basis for certification need only be a reference to the number and date of such documents.

(c) A certification that the State prior to June 1, 1953 issued final certificates or other evidence of right to the listed segregated lands or, in the absence of such action, that equitable rights to such lands accrued prior to June 1, 1953, by reason of cultivation or improvement of the lands for agricultural development purposes.

(d) A quitclaim or relinquishment, effective as of the date of issuance of the requested patent and/or quitclaim deed, of all right, title, and interest in the State to any and all lands under the Carey Act other than those to which it is entitled under the act of August 13, 1954 (68 Stat. 703).

(e) An affidavit by the signing officer describing the authority which authorized him, on behalf of the State, to make application under the act and to quitclaim or relinquish the State's right, title, or interest in all other lands under the Carey Act.

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

DECEMBER 29, 1954.

[F. R. Doc. 55-43; Filed, Jan. 4, 1955; 8:45 a. m.]

CFR noted

Published in 20 F. R. January 5, 1955

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73454

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter H—Grazing

[Circular No. 1897]

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

DEFINITIONS; FEES; TIME OF PAYMENT; REFUNDS

1. Section 161.2 (i) is amended to read as follows:

§ 161.2 *Definitions.* * * *

(i) "Animal-unit month," as applied to lands that are base properties, means the amount of natural or cultivated feed necessary for the complete sustenance of one cow for a period of one month; as applied to Federal range, it means that amount of grazing privileges represented by the grazing of one cow for a period of one month. For the purposes of this definition, one cow will be considered the equivalent of one-half horse or five sheep or five goats.

2. The note following § 161.8 (b) is amended to read as follows:

NOTE: In accordance with the provisions of § 161.8 (b) of the Federal Range Code for Grazing Districts (19 F. R. 8958, December 23, 1954), notice is hereby given that effective January 1, 1955, and pursuant to the act of June 28, 1934 (48 Stat. 1275), as amended, a total grazing and range improvement fee of 15 cents per animal unit month will be charged each regular licensee or permittee for each month of the grazing period covered by the license or permit, as shown below. Twenty-five percent of the total fee computed to the nearest whole cent will be a range improvement fee; the remainder will be a grazing fee.

1. Grazing fee—11 cents per head for cattle, 22 cents per head for horses, and 2⅕ cents per head for sheep and goats;
2. Range improvement fee—4 cents per head for cattle; 8 cents per head for horses; and four-fifths cent per head for sheep and goats.

Provided, That as to licenses or fee notices issued prior to January 1, 1955, no increase in fees shall be effected hereunder as to such licenses or fee notices until the next license or fee notice is issued.

This notice will not prevent the fixing of a different fee in appropriate cases, in accordance with the provisions of § 161.8 (b) of the Federal Range Code for Grazing Districts.

(Sec. 2, 48 Stat. 1270; 43 U. S. C. 315a)

DOUGLAS MCKAY,
Secretary of the Interior.

JANUARY 4, 1955.

[F. R. Doc. 55-176; Filed, Jan. 10, 1955; 8:45 a. m.]

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter H—Grazing

[Circular No. 1898]

PART 160—GRAZING LEASES

RENTALS, REFUNDS

Replaced by # 2014
3/10/59

Section 160.14 is amended to read as follows:

§ 160.14 *Rentals, refunds.* (a) The lessee shall pay the lease rental in the amount and manner specified in the lease. The rental shall be computed in conformity with the following rate tabulation, unless for sufficient reasons a different rate is authorized by the Director:

GRAZING RENTAL RATE TABULATION

Estimated grazing capacity in acres per animal unit month	Estimated grazing capicity in animal units year-long per section	Yearly lease-rate per acre
107.00	0.5	$0.001
53.00	1.0	.003
36.00	1.5	.004
27.00	2.0	.006
21.90	2.5	.007
18.00	3.0	.008
15.00	3.5	.010
13.00	4.0	.012
12.00	4.5	.013
11.00	5.0	.014
9.00	6.0	.017
7.50	7.0	.020
6.50	8.0	.023
6.00	9.0	.025
5.50	10.0	.027
5.00	11.0	.030
4.50	12.0	.033
4.00	13.0	.038
3.75	14.0	.040
3.50	15.0	.043
3.25	16.0	.046
3.00	17.0	.050
2.75	19.0	.055
2.50	21.0	.060
2.25	24.0	.067
2.00	27.0	.075
1.75	30.0	.086
1.50	36.0	.100
1.25	43.0	.120
1.00	53.0	.150
0.50	107.0	.300
0.25	213.0	.600

One cow or one-half horse or five sheep or five goats constitute one animal unit. The rental charge will not in any case be fixed at less than $1.00 per annum. The rental may be adjusted to reflect changes in approved rates at the end of each three-year period to apply to the rental charges for the next three-year period.

(b) No refund of rentals properly paid in accordance with these regulations and the terms of the lease will be made because of a failure to use the grazing privileges granted by the lease, except that during periods of range depletion due to severe drought or other natural causes or in case of a general epidemic of disease during the life of the lease the Director will in his discretion, remit, refund, reduce in whole or in part, or postpone the payment of rentals for such period of depletion or general epidemic.

(Sec. 2, 48 Stat. 1270; 43 U. S. C. 315a)

DOUGLAS MCKAY,
Secretary of the Interior.

JANUARY 4, 1955.

[F. R. Doc. 55-175; Filed, Jan. 10, 1955; 8:45 a. m.]

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1899]

PART 257—SALE OR LEASE OF SMALL TRACTS, NOT EXCEEDING FIVE ACRES, FOR RESIDENCE, RECREATION, BUSINESS, OR COMMUNITY SITES

Part 257 is completely revised as follows effective 60 days after date of approval hereof by the Secretary of the Interior:

Sec.

257.1 Statutory authority; lands which may be leased or sold.
257.2 Policy.
257.3 Classification of land.
257.4 Qualifications of applicants; restrictions.
257.5 Priority rights of applicants; veterans' priority.
257.6 Applications; general procedure.
257.7 Veterans' drawing procedure.
257.8 Filing fee.
257.9 Advance payment.
257.10 Community sites; appraisal; restrictions.
257.11 Lease provisions; terms and rentals.
257.12 Assignment of lease.
257.13 Leases with option to purchase; sale; patent.
257.14 Public auctions.
257.15 Renewal of lease.
257.16 Minerals; timber.
257.17 Acreage limitation; rights-of-way.
257.18 Applications following lease terminations, unsuccessful public auctions.
257.19 Termination or cancellation; removal of improvements.
257.20 Appeals.

AUTHORITY: §§ 257.1 to 257.20 issued under 52 Stat. 609, as amended; 43 U. S. C. 682a.

§ 257.1 *Statutory authority; lands which may be sold or leased.* (a) The act of June 1, 1938 (52 Stat. 609), as amended by the act of June 8, 1954 (68 Stat. 239; 43 U. S. C. 682a) authorizes the Secretary of the Interior, in his discretion, to sell or lease a tract, not exceeding five acres, of any vacant, unreserved public lands, including such lands in Alaska, public lands withdrawn by Executive Orders Numbered 6910 of November 26, 1934, and 6964 of February 5, 1935, or public lands withdrawn or reserved by the Secretary of the Interior for any purposes, which the Secretary may classify as chiefly valuable for residence, recreation, business, or community sites. The act is applicable to lands in such areas as grazing districts and lands withdrawn for reclamation or stock driveway purposes. The act does not apply to lands withdrawn by the Secretary solely under delegated authority (e. g. under Executive Order 10355 of May 25, 1952) or to reservations such as national forests, national parks, or national monuments. Authority to lease lands under the act for residence, recreation and community site purposes extends to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grants lands in Oregon under the jurisdiction of the Department of the Interior provided that such leases will not interfere with sustained yield timber management on these lands. The lands may not be leased or sold until classified for small tract purposes; and may not be occupied until the lands are leased or sold.

§ 257.2 *Policy.* (a) It is the policy of the Secretary in the administration of the act of June 1, 1938, to promote the beneficial utilization of the public lands subject to the terms thereof, and at the same time to safeguard the public interest in the lands. To this end small tract sites will be considered in the light of their effect upon the conservation of natural resources and upon the communities or area involved. Lands will not be leased or sold, for example, which would lead to private ownership or con-

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trol of scenic attractions, or water resources, or other areas that should be kept open to public use. Nor will isolated or scattered settlement be permitted which would impose heavy burdens upon State or local governments for roads, schools, and police, health, and fire protection. Undesirable types of construction for settlement or business along public highways and parkways will be guarded against, and lands will not be leased or sold under the act if such action would unreasonably interfere with the use of water for grazing purposes or unduly impair the protection of watershed areas.

(b) Under this act lands may be classified for direct sale, for lease and sale, or for lease only. Revested Oregon and California Railroad lands and reconveyed Coos Bay Wagon Road grant lands in Oregon will be classified for lease only. Lands in Alabama, Arkansas, Florida, Indiana, Louisiana, Michigan, Minnesota, Mississippi, Missouri, and Wisconsin may be classified for direct sale without lease in accordance with § 257.14. Lands in other States and in Alaska may be classified for direct sale at not less than the appraised price where counties or local communities have adequate authority to establish building, sanitation, and health requirements for the protection of adjacent property and the community as a whole or where the provisions of § 257.18 are applicable. Lands may be classified for lease and sale, as provided in § 257.13, where such adequate authority does not exist or where otherwise desirable. Lands will be classified for lease only where disposal would not be in the public interest. Lands suitable for community site purposes will be classified for lease or direct sale at appraised prices and will be subject to application only by nonprofit corporations or associations, States, Territories, municipalities, or other governmental subdivisions.

§ 257.3 *Classification of land.* (a) No lease will be issued or sale authorized prior to classification of land for such purpose. If the tract is found not suitable for such purpose, the application will be rejected.

(b) Lands classified under the act of June 1, 1938, as amended, will be segregated from all appropriations, including locations under the mining laws, except as provided in the order of classification or in any modification or revision thereof.

§ 257.4 *Qualification of applicants; restrictions.* (a) An application may be made by any of the following:

(1) An individual who is a citizen of the United States or who has filed declaration of intention to become a citizen.

(2) A partnership or an association, each of the members of which is a citizen of the United States or has filed declaration of intention to become a citizen.

(3) A corporation, including nonprofit corporations organized under the laws of the United States or of any State or Territory thereof and authorized to do business in the State or Territory in which the land is located.

(4) A State, Territory, municipality or other governmental subdivision.

(b) Any employee of the Department of the Interior, stationed in Alaska may purchase or lease one tract in Alaska for residence or recreation purposes. The conveyance of the tract will provide for reversion to the United States if the land is used for purposes other than residence or recreation within twenty-five years.

(c) Generally no person will be permitted to obtain by lease or purchase more than one tract under the act. Where more than one tract is needed, however, each tract must be the subject of a separate application, complete in itself, and must be accompanied by a satisfactory showing that the allowance of more than one application is warranted by the circumstances. In each application the applicant must identify all other applications under the act, if any, filed by him or any member of his family residing with him.

§ 257.5 *Priority rights of applicants; veterans' priority.* There are two types of priority rights: One is for any small tract applicant who files prior to official recording of plans for classification of an area; the other is for persons entitled to veterans preference[1] after the land has been classified for small tracts. Each is limited to the circumstances indicated in paragraphs (a), (b), (c) of this section.

(a) An application filed prior to the receipt by the land office of notice that the area is under consideration for small tract classification, will be given a priority only if (1) the land is thereafter classified for the type of site applied for; (2) the applicant agrees to conform his application to the area, classification, and dimensions of the tract as specified in the classification order; and (3) where the land is classified for direct sale, the applicant tenders the fair market value of the land when required.

(b) Except as limited by paragraph (a) of this section, when land is classified for lease and sale or for lease only, persons entitled to veterans preference will have a priority right for a period of not less than 90 days over the general public as specified in the classification order.

(c) Except as limited by paragraph (a) of this section, when land is classified for direct sale at public auction at not less than the appraised price, persons entitled to veterans preference will be granted the priority rights specified in § 257.14 (e).

§ 257.6 *Application; general procedure.* (a) An application on Form 4–776 must be filed in conformity with instructions therein, except for lands already classified for direct sale at public auction. Copies of the form may be obtained from the land offices, State Supervisors' offices or the Bureau of Land Management, Washington 25, D. C., an must be completed and filed in duplicate in the proper land office, or for land in States for which there are no land offices, with the Bureau of Land Management, Washington 25, D. C., except that applications for lands in North or South Dakota, must be filed in the land office at Billings, Montana; for lands in Nebraska or Kansas in the land office at Cheyenne, Wyoming; and for lands in Oklahoma in the land office at Sante Fe, New Mexico.[2] The duplicate forms must be signed by the applicant. In the event that the lands are classified for lease, or for lease and sale, the applicant's signature will constitute his signature to the lease, when the application is accepted and executed by the proper officer on behalf of the United States.

(b) If the land has not been classified the applicant should describe the desired tract, not to exceed five acres, by aliquot parts of a legal subdivision if surveyed and if unsurveyed by metes and bounds sufficient to permit ready and accurate identification. Where the land has been classified the applicant should describe the selected land in accordance with the classification order or official plat of survey. The applicant may also indicate that if the selected tract is not available he is willing to accept any other available tract described in the classification order which may be allocated to him.

(c) Any person desiring to purchas a tract already classified for sale a public auction under the act may submit a bid in accordance with the provisions of the classification order and § 257.14. No application on Form 4–776 should be filed in the above circumstances.

§ 257.7 *Veterans' drawing procedure.* (a) Whenever a great number of filings in excess of the number of tracts available is anticipated for lands subject to veterans' priority and classified for lease and sale or for lease, a special veterans' drawing will be held. The classification order will give all relevant information concerning the drawing and will state that "Veterans' Drawing Entry Cards," Form 4–775, must be filed in lieu of application Form 4–776.

(b) Any person who has the necessary qualifications, including veterans' priority rights, may obtain the official drawing entry card Form 4–775 upon request to the land office manager or Director, Bureau of Land Management. The request should designate the classification order by number. Entry cards will automatically be sent to any persons who filed applications on Form 4–776 prior to the classification order requiring the veterans' drawing. The applicant must comply with all instructions stated on the entry card and return it within the filing period specified in the classification order in order to qualify for the drawing. If any entrant files more than one entry card under any classification order, the entrant shall be ineligible to participate in the drawing.

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[1] Regulations relating to veterans' preference are contained in 43 CFR Part 181. Those entitled to such preference under the Small Tract Act, in brief, include honorably discharged veterans who served in the armed forces of the United States for a period of at least 90 days after September 15, 1940; the surviving spouse or minor orphan children of such veterans; and, with the consent of the veteran, the spouse of living veterans. The 90-day requirement does not apply to veterans who were discharged on account of wounds or disability incurred in the line of duty or to the surviving spouse or minor orphan children of veterans killed in the line of duty.

[2] Lists indicating the proper office for filin of applications can be obtained from the Director or any other office of the Bureau of Land Management.

(c) Each successful entrant in a drawing will be furnished in duplicate Form 4–776, bearing the description of the tract allocated to him. The forms must be completely filled out, signed and returned, accompanied by the proper rental and filing fees within the time allowed. Where an entrant for any reason fails to comply with the requirements within the time allowed, the lot will become available to the alternate next in line in the drawing.

§ 257.8 *Filing fee.* Every application on Form 4–776 must be accompanied by a filing fee of $10.00. No fee is required for the filing of a "Veterans' Drawing Entry Card," Form 4–775, or "Special Drawing Entry Card," Form 4–775b, but the fee is required of entrants who are successful in the drawing. No fee is required in connection with a bid in a sale at public auction. A fee of $10.00 is required with each application to purchase, based upon an outstanding lease and with each application for renewal or assignment of an outstanding lease. All filing fees will be retained by the Government.

§ 257.9 *Advance payment.* In addition to filing fees, every application on Form 4–776 except applications for community sites, and every bid for lands subject to sale at public auction, must be accompanied by an advance payment, which will be applied against the rental or purchase price of the land:

(a) If the land has been classified for lease or for lease and sale, the advance payment is the rental for the entire lease period, as specified in the classification order, if such period does not exceed five years. Where lands are classified for lease for periods in excess of five years, the advance payment will be as specified in the classification order. If the land has not been classified, the advance payment is $15 for nonbusiness, and $100 for business-site applications. Successful applicants will be required to pay any difference between advance payment and rental or purchase price before their applications will be granted.

(b) If the land has been classified for sale at public auction, the advance payment is whatever amount the applicant bids, but not less than the appraised price stated in the classification order.

(c) Advance payments will be refunded to unsuccessful applicants or bidders.

§ 257.10 *Community sites; appraisal; restrictions.* (a) Land suitable for community site purposes may be classified for direct sale, for lease and sale or for lease only in conformance with the provisions of § 257.2. Appraisals for sale or rental value may take into consideration the use which is to be made of the land where the public use contemplated justifies such action.

(b) Where lands are sold at less than fair market value in accordance with § 257.10 (a) the patent will contain a provision for reversion of title to the United States if the lands are used for any purpose not consistent with the classification order within a period of twenty-five years after issuance of patent unless consent to change the use is first obtained from the proper official of the Bureau of Land Management.

§ 257.11 *Lease provisions; terms and rentals.* (a) The term of lease will be specified in the classification order and will not exceed three years for lands classified for lease and sale and will not exceed twenty years for lands classified for lease only.

(b) The amount of rental will be specified in the classification order. Rental on lands classified other than for business sites will equal the fair market rental of the lands, provided, however, the minimum rental will be $5 per tract per year. The rental for community sites will take into consideration the purpose for which the land will be used. Rental on lands classified for business sites will be based on percentages of the gross income as specified on Form 4–776, provided, however, the minimum rental will be $20 per tract per year.

(c) Leases issued for periods in excess of five years will provide for the construction of improvements, satisfactory for the purpose for which the lease issued, during the first five years of the lease period. Failure to comply with this requirement will result in cancellation of the lease except where the lessee can demonstrate that such failure was due to unavoidable and unforeseen circumstances.

(d) Provisions relating to the improvement and occupancy of leased tracts are contained on Form 4–776. Special provisions implementing the general provisions on the form may be indicated in the order of classification.

§ 257.12 *Assignment of lease; subleasing.* (a) No assignment of a lease will be recognized unless and until approved by the Bureau of Land Management. Approval of assignments will be discretionary but in no case will an assignment be approved until suitable improvements are constructed on the land or compliance is had with § 257.13 (d) (1), except where the lessee can demonstrate that his failure to construct such improvements was caused by unforeseen and unavoidable circumstances.

(b) Proposed assignments of leases must be submitted within 90 days from the date of execution in duplicate on Form 4–1217 to the appropriate office mentioned in § 257.6 and must be accompanied by the filing fee as required in § 257.8.

(c) Subleasing of a tract, in whole or in part, will not be approved.

§ 257.13 *Leases with option to purchase; sale; patent.* (a) Leases for lands classified for lease and sale will contain an option to purchase clause. The option to purchase clause will afford the lessee or his duly approved successor in interest an opportunity to purchase the tract at any time within the term of the lease, provided the improvements required by the lease have been made and all other terms and conditions of the lease complied with. The net purchase price of the land will be the appraised value of the unimproved land as of the date of the lease minus an amount equal to the advance rental for each full lease year, if any, subsequent to the filing of the application to purchase.

(b) An application to purchase must be filed with the office mentioned in § 257.6 (a) on Form 4–775a in duplicate, together with (1) a statement as to the cost, type and character of the improvements constructed on the land, (2) one or more photographs showing clearly such improvements, and (3) the filing fee as required in § 257.8.

(c) If a sale is authorized, the applicant will be allowed 60 days from service of notice thereof to pay the net purchase price.

(d) (1) Groups of lessees of small tracts in an area may enter into binding agreements among themselves to observe, in the development of their leased tracts, standards of building, sanitation, and health requirements consistent with the terms of their leases. Lessees who participate in this agreement may exercise, at the discretion of the Bureau of Land Management, their option to purchase without prior compliance with the improvement requirements of their leases.

(2) Two copies of the agreement must be filed with the appropriate office mentioned in § 257.6 (a). In addition, each lessee participating in the agreement who desires to take advantage of this provision must file in duplicate an application to purchase on Form 4–775a, together with the filing fee as required in § 257.8 and a reference to the aforementioned agreement.

(3) If sale is authorized, the applicant will be allowed 60 days from service thereof to pay the net purchase price as computed in paragraph (a) of this section.

§ 257.14 *Public auctions.* (a) Whenever lands are classified for direct sale by public auction, they will be sold at not less than their appraised value at the time and place and in the manner specified by the classification order.

(b) Bids may be made by the principal or his agent, either personally at the sale or by mail.

(c) A bid sent by mail must be received at the place and within the time specified in the classification order. Each such bid must clearly state (1) the name and address of the bidder; (2) the specific tract, as described in the classification order, for which the bid is made; and (3) whether the bidder is a person entitled to veterans' preference. The envelope must be noted as required by the classification order.

(d) Each bid by mail must be accompanied by certified or cashier's check, post office money order or bank draft for the amount of the bid. Bids by mail for more than one tract offered at a sale must be enclosed in separate envelopes but payment need accompany only the highest bid provided all other bids designate the envelope containing the payment.

(e) The person who submits the highest bid for each tract at the close of bidding, but not less than the minimum price, will be declared high bidder. However, when bids are received from persons claiming veterans' preference and from bidders not claiming such rights, the highest bidder among the veterans' priority bidders will be declared high bidder. If the high bidder meets the general requirements of a small tract applicant, he will be declared purchaser. Any person who is declared high bidder will automatically be disqualified from consideration for other tracts for which he may have submitted bids.

(f) If there are no successful purchasers of any tracts offered at the sale, the tracts will be closed to filing of applications until an order is issued specifying the time and manner in which they shall be made available in accordance with § 257.18.

§ 257.15 *Renewal of lease.* (a) An application for renewal of a lease must be filed on Form 4-775a in duplicate with the office mentioned in § 257.6 (a) prior to the expiration of the lease. A renewal in the form of a new lease will be granted only if it is determined that a new lease should issue and that the requirements of paragraph (b) or (c) of this section have been met. The term of the lease and any special conditions will be established by the officer who signs it. The application must be accompanied by a filing fee in compliance with § 257.8.

(b) Where the land has been classified for lease only, renewals will be approved only if the lessee has constructed satisfactory improvements on the tract appropriate to the type of use for which the lease originally issued, such as a substantial and presentable dwelling suitable for year-round or seasonal use where the land was classified for residence purposes.

(c) Where the land has been classified for lease and sale, renewals will be approved only upon a satisfactory showing that the lessee's failure to meet the requirements for sale of the tract is justified under the circumstances and that nonrenewal of the lease would work an extreme hardship on the lessee.

§ 257.16 *Minerals; timber.* (a) Any lease or patent issued under the act will reserve to the United States all deposits of coal, oil, gas, or other minerals, together with the right to prospect for, mine, and remove the same under such regulations as the Secretary may prescribe. Any minerals subject to the leasing laws in the lands patented or leased under the terms of the act may be disposed of to any qualified person under applicable laws and regulations in force at the time of such disposal. Until rules and regulations have been issued, the other kinds of minerals that may be found in such lands are not subject to prospecting or disposition.

(b) (1) Because of the need for strategic and fissionable source minerals as well as minerals important to the economic and industrial welfare of the Nation and its security, the Director may authorize any Federal agency to enter upon any of the lands classified for small tract purposes within the State of Florida (and such other States or Territory for which approval of this action may be given by the Secretary of the Interior) for exploratory purposes to determine whether such lands are mineral in character and the nature, extent, and incidence of such mineral, if any, even though such lands are under lease or have been patented in accordance with paragraph (a) of this section.

(2) The exploratory work conducted under the authority hereof, shall not be construed as permitting damage to the permanent structures or buildings of the small tract lessees or patentees or their lawful successors in interest.

(c) A lessee will not be permitted to cut timber from the leased lands without first obtaining permission from the appropriate office mentioned in § 257.6 (a).

§ 257.17 *Acreage limitation; rights-of-way.* (a) No tract shall be larger than five acres except where subdivision of a fractional lot to meet this limitation would leave areas unsuitable for practical use. In such cases, the lots will be subdivided to produce usable units not in excess of 7½ acres.

(b) The classification order may provide for rights-of-way over each tract for street and road purposes and for public utilities. If the classification order does not so provide, the right-of-way will be 50 feet along the boundaries of the tract.

§ 257.18 *Application following lease terminations, unsuccessful public auctions.* (a) In any of the following circumstances, a tract shall not be subject to further application until an order is issued specifying the time and manner in which the tract shall be made available for lease or purchase: (1) When a small tract lease has terminated, been relinquished or canceled for any reason; (2) where no one has been declared purchaser for a tract offered at public auction.

(b) The order will be posted in the land office at least 15 days prior to its effective date and will be given wide publicity through appropriate news media in the area.

(c) The order will specify which one of the following methods will be used for disposing of the land: (1) Sale at public auction to the highest bidder in accordance with § 257.14, subject to the veterans' priority provisions of § 257.14 (e); (2) a special drawing procedure indicated in paragraph (d) of this section.

(d) Any order calling for a special drawing procedure will specify (1) the time and place for filing drawing cards, and (2) that Special Drawing Card Form 4-775b must be properly executed. The drawing will determine priority and establish an adequate list of eligibles. Drawings may be held for several tracts, and at whatever intervals of time the authorized official feels warranted by the circumstances.

§ 257.19 *Termination or cancellation; removal of improvements.* (a) The lessee may terminate the lease, if he is not in default thereunder, by filing a notice of relinquishment of the lease in the proper land office. Any lease may be canceled where the lessee has failed to comply with any of the terms, covenants, and stipulations of the lease, or to abide by any of the regulations in this part, and such default has continued for 30 days after written notice thereof.

(b) No refund will be made of rental for the unexpired term of a lease relinquished by the lessee or canceled for cause.

(c) Upon the termination, cancellation or expiration of a lease, the lessee will have a period of 90 days within which to remove his improvements from the land or to make other disposition thereof. If the improvements are disposed of to a person other than a subsequent lessee they must be removed from the land within the 90-day period, otherwise the improvements will become the property of the United States.

§ 257.20 *Appeals.* An appeal pursuant to the rules of practice, Part 221 of this chapter, may be taken from the decision of any officer of the Bureau of Land Management.

NOTE: The record keeping or reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

JANUARY 10, 1955.

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